IFAR Journal

INTERNATIONAL FOUNDATION FOR ART RESEARCH

VOLUME 4 NUMBER 1 2001

DE CHIRICO FORGERIES

THE FBI'S ROLE IN ART FRAUD AND THEFT

NEW TWISTS TO OLD ART SCAMS

U.S.-ITALY AGREEMENT ON ANTIQUITIES IMPORTS

INCORPORATING Stolen Art Alert

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IFAR Journal

INTERNATIONAL FOUNDATION FOR ART RESEARCH

Updates and Newsbriefs:

New York State Settles Internet Art Fraud Suit 2

Consignor of Fakes to Florida Auction Fined and Sentenced 3

Art Scholar and Dealer Confront New Twists to an Old Scam 4

U.S. and Italy Sign Agreement to Limit Import of Antiquities 6

Denver Museum Brings Mile-High Joy to Oregon Woman: Painting Returned to Daughter of Holocaust Victims 8

De Chirico Forgeries: The Treachery of the Surrealists 10
William H. Robinson

The FBI's Role in Art Fraud and Theft: An *IFAR Evening* 18

A Puzzle Resolved: Dukes's Portrait Identified 38
Gertrude Wilmers

The Laches Defense in Art Theft Litigation 44
Jeremy G. Epstein

Book Review: *More on Looted Art* 49
Lucille A. Roussin

Stolen Art Alert 51

Cover: Giorgio de Chirico, or forger. *Metaphysical Interior,* 1917, or 1935-45? Oil on canvas. 73.2 x 54.0 cm. The Cleveland Museum of Art, John L. Severance Fund 81.51. See article, p. 10.

NEW YORK STATE SETTLES INTERNET ART FRAUD SUIT

An art gallery in New Windsor, New York, which was sued last year for fraudulent selling practices on the Internet (see *IFAR Journal*, Spring 2000), has agreed to refund money to its victims. The agreement was announced by the NYS Attorney General, Eliot Spitzer.

Last May, Spitzer filed a civil suit against the gallery, The Antique and Design Center, accusing it of selling at least 56 counterfeit paintings on the popular Internet auction site eBay over a two-year period between 1998 and 2000. The paintings included works attributed to well-known European and American artists such as Charles Burchfield, George Inness, and Oscar Kokoschka. In several cases, dissatisfied owners returned the works; their money was refunded, but the works were then *resold* by the gallery.

"The gallery is entitled to keep the works and even resell them, but simply may not misrepresent them as genuine."

According to the settlement, which was approved in January by Manhattan Supreme Court Judge Barbara Kapnick, the gallery will:

- Refund an estimated $111,000 to 18 defrauded customers;
- Post a $70,000 bond before continuing to do business in New York;
- Agree to pay treble damages and a $5,000 penalty for any future violations; and
- Reimburse $45,000 to the Attorney General's office for the cost of its investigation.

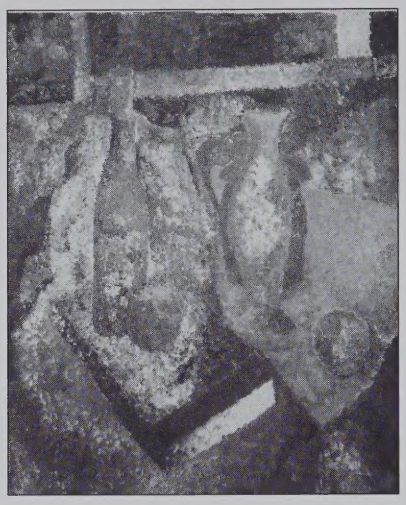

Figure 1. Still-life by an art student sold as a Kokoschka on the Internet.

Defrauded customers, by Court Order, will receive their refunds upon return of the works to the gallery. The gallery, however, is entitled to keep the works and even resell them, but simply may not misrepresent them as genuine. The illegality, in the words of the Attorney General's office to IFAR, "depends on how they are represented, or misrepresented, upon . . . sale."

The gallery is owned by Jerry and Jill Schuster. In 1980, Mr. Schuster was convicted in Federal Court in Manhattan of knowingly selling paintings with forged signatures. He was sentenced to a year and a day in prison and also fined. Ten years later, in 1990, he was convicted of conspiracy, bank fraud, mail fraud, and wire fraud, and was sentenced to three years in prison. The judge, calling him "a career fraud and con artist," also prohibited him from returning to the art, antiques or auction business for three years after his release from prison.

"Consumers who believe that they were defrauded by the gallery should contact the Attorney General's Internet Bureau."

The Antique and Design Center did business under several names, including "The Antique Connection" and, on eBay, "sambuca914" and "gutec914." Consumers who believe that they were defrauded by the gallery should contact the Attorney General's Internet Bureau, headed by Assistant Attorney General, Kenneth Dreifach, at: Kenneth.Dreifach@oag.state.ny.us.

—S.F.

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CONSIGNOR OF FAKES TO FLORIDA AUCTION FINED AND SENTENCED

FBI WINS FOUR-YEAR CASE

The FBI has finally gotten its man in the case of the 294 artworks of dubious authenticity consigned to a Florida auction house in 1997.[1] (Fig. 1) Dewey Lane Moore, a Florida collector and retired art dealer, ended the four-year saga by pleading guilty in February to one count of mail fraud. In April, he was fined $10,000 and

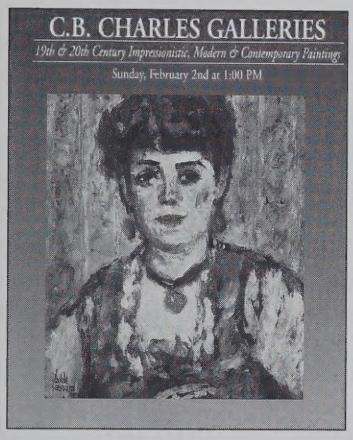

Figure 1. Catalogue Cover, Auction Sale, Sunday, February 2, 1997, C. B. Charles Galleries.

sentenced to three years probation, the first six months under house arrest. So ends the chronicle of the largest and most publicized group of fakes ever blocked from sale at auction. (See *IFARreports*, November 1997.)

The details of the case range from strange to eye-popping. The auction had been set for February 1997 at the

1. There are 295 item numbers in the auction catalogue, but one was damaged and removed from sale prior to the government's investigation.

> "Dewey Lane Moore, a Florida collector and retired art dealer, ended the four-year saga by pleading guilty to one count of mail fraud."

C.B. Charles Galleries in Pompano Beach, Florida (since closed). But just days before the gavel was to come down, the auction was canceled. The FBI, working with the Art Dealers Association of America (ADAA), announced that most, if not all the works, were fakes.

The artists' names (if not the works) were impressive: Picasso, Degas, Miró, Winslow Homer (incorrectly spelled "Windslow" in the catalogue although not on the work), and Camille Pissarro (spelled Camile in the catalogue). The sheer number of fakes and their poor quality, coupled with a high-pressure publicity campaign to promote the auction, caught the attention of dealers and collectors around the country. The ADAA notified the FBI of its concerns. Living artists, such as Jasper Johns and Helen Frankenthaler, whose names were listed in the catalogue, disavowed the works "attributed" to them.

When the FBI moved in, the art works in question were "voluntarily relinquished" and then stored in a Florida warehouse. Although it was not clear initially whether the target of the investigation would be the auction house or the consignor, the authorities wound up charging the consignor, later revealed to be Dewey Moore.

Figure 2. Francisco Zuniga fake. *Sleeping Maiden*; w/c and conté crayon on paper. C. B. Charles Galleries catalogue, #174. Admitted by Dewey Moore to have been knowingly consigned as a fake.

Moore's family, incidentally, was said in the catalogue (presumably to impress potential buyers) to have "donated" to the U.S. the land on which West Point was built. (According to the FBI, the story is plausible. Its research showed that the land for West Point was *purchased* in 1790 from a N. Carolina family named Moore.)

> "Very little case law in the U.S. exists on the disposition of fakes after an investigation."

A federal grand jury, convened in 1997, met regularly for three years in the criminal investigation, hearing testimony from any number of art world experts. After first pleading his complete innocence, Moore finally admitted to "willfully and knowingly executing a scheme" to defraud by attempting to sell at least one work that he knew to be fake (a *Sleeping Maiden* allegedly by Francisco Zuniga, Fig. 2). The maximum penalty on the charge was five years in prison and/or a fine. [Title 18 USC, Sections 1341 and 42, Mail Fraud]

"[The FBI] is seeking an institution where the fakes can be kept for study purposes. . .The 'quality of the works is so poor, [however], that no one is interested in taking them.'" .

But the case doesn't end here. Now the question remains: what happens to the artworks themselves? Very little case law in the U.S. exists on the disposition of fakes after an investigation. Whereas in France, fakes can be confiscated and destroyed, the law is not so clear in the U.S. It is not a crime in the U.S. to create or own a fake, only to misrepresent it for sale. Except when forfeiture is ordered by a court, an owner can often demand the return of his property (see story this issue: *New York State Settles Internet Art Fraud Suit*). In this case, however, Mr. Moore has abandoned all claims to the art.

Some outcomes to these cases seem more like a compromise than a solution. In the 1990 Centre Art Gallery fraud trial in Honolulu, for example, (at which IFAR testified as expert witness), the gallery owners were convicted of mail and wire fraud; fined, and sentenced to prison. Thousands of forgeries (mainly Salvador Dalí prints) were involved. In that case, the government had discretionary power over them. But the court decided not to destroy the works, as it could have done. Instead, Judge Harold Fong of the Federal District Court in Honolulu, taking into account the government's trial expenses, elected to recoup those costs by ordering the fakes to be put up for sale. This brought a sharp outcry from the art community. The sale took place in 1995 (see *IFAR reports* December 1995). Although a stamp was placed on the back of each work to indicate it was a fake, the art community was convinced that eventually many would end up back on the market posing as genuine.

Figure 3. Arthur Burdett Frost. Pen & ink illustration. *He Made Some Hootch and Tried it on the Dog*. Signed "A.B. Frost" l/r. The only work consigned by Dewey Moore believed by the FBI to be authentic.

That won't be the scenario in this case. Rather than destroy the works, however, the FBI is seeking an institution where the fakes can be kept for study purposes. It offered them to both Yale and Harvard (the Fogg Art Museum), but neither accepted. "The quality of the works is so poor," the FBI believes, "that no one is interested in taking them." So, the FBI is considering using the works "for training purposes, in which case, they would likely be distributed to FBI people at headquarters in Washington as well as in field offices across the U.S."

Wherever the collection winds up, however, one work will *not* be in it. FBI spokeswoman, Judy Orihuela, says the agency has agreed to return one drawing to Mr. Moore. It is a small illustration by Arthur B. Frost (Fig. 3). The FBI determined that of the 294 works consigned to the 1997 auction, that work—and that alone—is authentic.

—S.F.

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ART SCHOLAR AND DEALER CONFRONT NEW TWISTS TO AN OLD SCAM

NEGATIVE BECOMES POSITIVE

Abigail Gerdts, an expert on the work of Winslow Homer, has alerted IFAR to an apparent fraud regarding some purported drawings by the artist.

Gerdts' opinion, as expressed in a 1993 letter, that a group of drawings was NOT by Homer, was turned into a positive opinion when the letter recently re-appeared in a doctored form with her signature still attached.

"Gerdts' opinion . . . that a group of drawings was NOT by Homer was turned into a positive opinion when the letter re-appeared in a doctored form with her signature still attached."

Gerdts is currently working on a catalogue raisonné of Winslow Homer's paintings and drawings.[1] In 1993, she was asked for an opinion on six drawings believed to be by Homer, a request made by the owner. She responded in writing that the draw-

1. The catalogue raisonné was begun by Lloyd Goodrich. Ms. Gerdts assumed responsibility for it upon Mr. Goodrich's death.

ings were not by Homer. Recently, however, her letter [*sic*] was produced to support an auction sale of a single drawing attributed to Homer (a drawing *not* part of the 1993 group). The scam was revealed when the buyer of this drawing approached Gerdts to authenticate his purchase and showed her the (doctored) letter. The deception underscores the ease with which such letters can be falsified and manipulated in the computer age.

Some details: In October 1993, Gerdts' opinion was sought for several drawings. Some were initialed "W. H." and one was signed "Winslow Homer." The same month, Gerdts responded on the official letterhead of "The Lloyd Goodrich . . . Record of Works by Winslow Homer." Noting that she had previously seen all the drawings, she wrote that, in her opinion, none were by Homer.

In December of 2000, another drawing attributed to Homer, initialed "W. H."and estimated at $7,000–10,000, came up for auction at Butterfield & Butterfield, the noted San Francisco auction house. Inserted in the sale catalogue, as an addendum or "corrigenda" on the day of the sale, was Gerdts' supposed 1993 letter (still with the official letterhead and the original date). The letter was not mentioned in the sale catalogue.

Whereas Ms. Gerdts' original letter stated that the works were *not* genuine, the current letter had removed all the negative comments, including an entire paragraph to the effect that *none* of the works: "is in a style characteristic of Homer's sketches; nor is the initialing and signature similar to his manner of signing."

In their place were endorsements:

--"all these drawings appeared to me to be in a style characteristic of Homer's sketches. . . ."

--"It was my opinion at the time that these drawings were Homer's of the 1860's. . . ."

--"It is the work of Winslow Homer."

In changing Gerdts' thumbs-down to thumbs-up, her original two-page letter had been shortened to one page, dropping her typewritten name at the end of the letter and leaving just her signature. The alterations were so seamlessly integrated into the original letter that only someone very familiar with the original could spot the changes. However, when read carefully, Gerdts' 1993 descriptions of the drawings do not fit the drawing at the December sale.

> "In our technological age . . . falsifications and manipulations like this are relatively easy to do."

Butterfield did not consult Gerdts prior to the sale, so she did she know of the fabricated letter until the successful buyer contacted her after the auction to authenticate the drawing. Gerdts informed the new owner of the deception and sent a copy of that letter to the auction house.

Gerdts gave this information to IFAR because, in her opinion, IFAR is "far and away the best venue." She has no idea of where or when the falsification occurred, or by whom. But she does want *IFAR Journal* readers to be alert to such scams and be cautious of any letter accompanying a work that was supposedly written by an expert. In our technological age, with precision scanners, high tech printers, complex software, and so on, falsifications and manipulations like this are relatively easy to do.

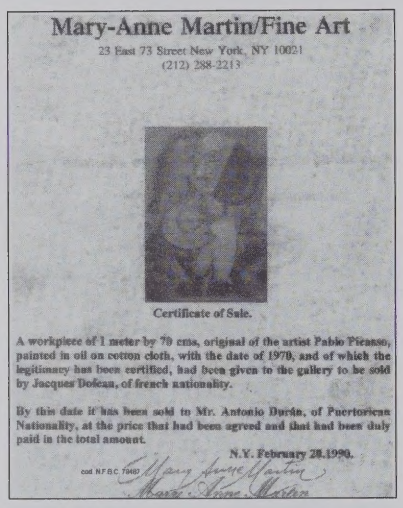
PHONY CERTIFICATES:

IFAR has recently been alerted to other scams as well, including one in which the phony signature and doctored stationery of New York dealer Mary-Anne Martin accompany two fake works currently being offered for sale in South America and New York.

Figure 1. Purported Frida Kahlo work on paper, dated 1944.

The works in question are a purported Picasso oil painting of a nude woman (1970) and a purported Frida Kahlo work on paper (ink and color tempera) (Fig. 1), said to be a 1944 preliminary sketch for her painting *Broken Column*. The "Picasso" is being offered with both a phony 1990 Certificate of Sale from Martin's gallery, on stationery that does not

"The Kahlo work comes with a Certificate of Authenticity purportedly signed by Martin, with a signature so off that, according to Martin, 'it cannot even be considered a forgery'."



Mary-Anne Martin/Fine Art
23 East 73 Street New York, NY 10021
(212) 288-2213

Certificate of Sale.

A workpiece of 1 meter by 70 cms, original of the artist Pablo Picasso, painted in oil on cotton cloth, with the date of 1970, and of which the legitimacy has been certified, had been given to the gallery to be sold by Jacques Dolcan, of french nationality.

By this date it has been sold to Mr. Antonio Durán, of Puertorican Nationality, at the price that had been agreed and that had been duly paid in the total amount.

N.Y. February 28,1990.

Figure 2. Phony Certificate of Sale from Mary-Anne Martin / Fine Art.

Mary-Anne Martin/Fine Art
23 East 73 Street New York, NY 10021
(212) 288-2213

CERTIFICATE OF AUTHENTICITY

FRIDA KAHLO (1907 - 1954), made a self-portrait in small format in 1944 as preliminary to one of her most famous works of art. In this work-piece, she drives nails into her whole body, as a description of her external and internal sufferings.

Her spinal column, represents a Greek column that crumbles into pieces, to signify the total dissipation of life that she considers in that way.

This work of art measuring 16 x 20 inches, performed in inks and color tempera on pasteboard-like paper is signed on the back at right and dated in 1944.

It is authentic and original, in virtue of which we certify it on November 17, 1973.

Figure 3. Phony Certificate of Authenticity for a Frida Kahlo work on paper

conform to the gallery's letterhead (Fig. 2), and a fake Certificate of Authenticity purportedly by noted Picasso specialist, Pierre Daix. The "Kahlo" comes with a Certificate of Authenticity purportedly signed by Martin, with a signature so off that, according to Martin, "it cannot even be considered a forgery." (Fig. 3).

Martin learned about the scam when photos of the works, accompanied by the phony certificates, were sent to her for authentication by potential buyers in South America. Since then, she has also been alerted by another New York dealer, who was offered the works.

Caveat emptor!

—S.F.

■ ■ ■

U.S. AND ITALY SIGN AGREEMENT TO LIMIT IMPORT OF ANTIQUITIES

COVERS OBJECTS FROM 9TH CENTURY BC TO 5TH CENTURY AD

In response to Italian requests for U.S. help in curtailing the looting of its archaeological treasures, the United States signed a Memorandum of Agreement with Italy on January 19, 2001 calling for sweeping restrictions on the importation of Italian artifacts into the U.S.

The bilateral Agreement remains in effect for five years, unless extended. A detailed list of the restricted items was posted in the Federal Register on January 23 (Vol. 66, No. 15). The list encompasses archaeological material from approximately the 9th century BC to the 5th century AD representing pre-Classical, Classical and Imperial Roman periods, and includes sculpture, monuments, wall paintings, vessels and ornaments in stone, metal, ceramic, and glass.[1] The restricted materials include not only objects originally made in what is now Italy, but red and black figured Attic vases and other Attic and Corinthian pottery that were widely exported from Greece to ancient Italy and the entire Mediterranean region. The restrictions encompass some of the Italian antiquities most sought after by collectors, such as Etruscan and Roman bronzes and Apulian vases.

As of the effective date of the Agreement (January 23, 2001), restricted items can no longer be imported into the United States unless accompanied by an export certificate issued by the Government of Italy or by "documentation demonstrating that the articles left the country of origin prior to the effective date of the import restrictions." The burden of proof will be on the importer. Works brought in contrary to the Agreement are subject to seizure by U.S. Customs and will be returned to Italy. Items in the U.S. prior to January 23 are not affected by the Agreement.

The Agreement was signed fifteen months after Italy petitioned the U.S. for help. The request was reviewed by the Cultural Property Advisory Committee (CPAC), an advisory body within the U.S. State Department. CPAC was created in 1983, when the United

1. The complete list of restricted items can also be found on the U.S. State Department's Web site: http:\\exchanges.state.gov/education/culprop.

States signed the Implementing Legislation for U.S. participation in the 1970 UNESCO Convention on . . . Cultural Property. CPAC is responsible for reviewing requests by foreign governments for U.S. help when their cultural heritage is in jeopardy. As reported in *IFAR Journal*, Vol. 3, no. 2, the Committee has come under fire recently from members of the art trade because of lack of trade representation and what they believe to be an anti-collecting bias. By law, three of CPAC's eleven seats are designated for "experts in the international sale of cultural property." Two of those seats are currently empty, and one has only recently been filled.[2] The new Agreement was passed despite the objections of antiquities dealers regarding the scope of the request. In reaching its recommendation, however, the U.S. concluded that the heritage of Italy was in jeopardy from the pillage of its archaeological treasures.

Currently, 91 countries are parties to the UNESCO Convention, a worldwide effort to reduce the looting of and the illicit international trafficking in cultural treasures that are important to their nation of origin. Until recently, the United States was the only major art importing country to become a party to the Convention. However, France became a party in 1997, and in March 2000, Great Britain announced its intention to accede to the Convention.

The Agreement also looks to Italy itself to take appropriate actions, addressing some concerns that it is not doing enough to protect itself

"The restricted materials include not only objects originally made in what is now Italy, but . . . vases and . . . pottery that were widely exported from Greece to ancient Italy and the entire Mediterranean region."

against looting. While acknowledging Italian efforts in recent years "to devote more public funds to guard archaeological sites and museums and to develop Italian tax incentives for private support of legitimate excavation," the Agreement underscores Italy's commitment to continue to pursue these efforts, and its need to:

- Institute more severe penalties and prompt prosecution of looters;
- Regulate the use of metal detectors (used by potential looters);
- Provide additional training for the Carabinieri Special Unit for the Protection of Artistic Patrimony; and
- Intensify the investigations by the Carabinieri . . . on the looting of archaeological sites and on the routes out of the country taken by the smugglers of these artifacts.

Italy also agreed, among other things, to:

- Promote agreements for long-term loans of objects of archaeological and artistic interest to U.S. institutions, and, very significantly,
- To continue to examine new ways to facilitate the export of archaeological items legitimately sold within Italy.

The difficulty of receiving an export certificate from Italy has been a source of frustration to collectors and dealers in the U.S.

Italy is the first European country to sign a bilateral agreement with the U.S. under the UNESCO Convention. Other U.S. agreements have been signed with Canada, El Salvador, Guatemala, Mali, Nicaragua, Peru, Cambodia and Cyprus, the latter two

"Italy is the first European country to sign a bilateral agreement with the U.S. under the UNESCO Convention."

under emergency legislation. Several requests are still pending, including: Bolivia, Cambodia, and Cyprus.

—S.F.

. . .

BREAKING NEWS

Kate Fitz Gibbon, art dealer, author, and antique textile specialist, became a member of the Cultural Property Advisory Committee on April 25. A co-owner of the Anahita Gallery in Santa Fe, she was named by President Clinton in Oct. and fills one of three seats designated for "experts in the international sale of cultural property."

2. By Kate Fitz Gibbon, a Santa Fe dealer and textile specialist. See "Breaking News" this page.

DENVER MUSEUM BRINGS MILE-HIGH JOY TO OREGON WOMAN

PAINTING RETURNED TO DAUGHTER OF HOLOCAUST VICTIMS

In recent years, there have been several bitter—and highly publicized—ownership battles over art works once belonging to victims of the Holocaust. This story is about an amicable settlement and about a woman whose recovery has reunited her with a painting she last saw in 1934.

The painting, *The Letter* (Fig.1), now attributed to a follower of the Dutch 17th century genre painter Gerard ter Borch, was located in the collection of the Denver Art Museum.

Marianne Rosson, both of whose parents died in Nazi concentration camps, remembers the painting when it hung in her family home in pre-World War II Berlin. Now, after more than 65 years, she can see it again—hanging in her son's home, near hers, in Oregon. It was returned to her by the museum in February, one day after

" . . . The museum was notified—by e-mail!—that there was a claim on the painting."

her 80th birthday (Fig. 2). Before the War, it belonged to Ms. Rosson's father, Paul Hartog, a Jewish banker who died in 1942 at the Theresienstadt Concentration Camp. (Ms. Rosson's mother died in Auschwitz two years later.)

The Letter was one of 31 paintings that comprised Hartog's art collection. In the 1930's, he was forced by

Figure 1. *The Letter*, 17th Century, School of Gerard ter Borch. oil on canvas. 26¼ x 20¼ . Formerly Denver Art Museum Collection.

Figure 2. Marianne Rosson reunited with the painting that belonged to her father.

the Nazis to sell 19 of the works—including *The Letter*—at auction at Berlin's Galerie Paul Graupe, a gallery now known to have collaborated with the Nazis. Restitution laws issued after the War considered forced sales—at prices far below market value—the equivalent of looting.

The remaining 12 works from his collection were confiscated when Hartog was arrested by the Gestapo in 1942.

Soon after the War, one of Hartog's daughters (Rosson's half-sister) began searching for the family's collection, and her son then continued the search. But the investigation turned up little.

The Letter entered the collection of the Denver Art Museum in 1961, a gift of collectors Robert and Helen Silber, who had purchased it in New York City. And there it stayed, uncontested, until the Spring of 2000, when the museum was notified—by e-mail!—that there was a claim on the painting.

The e-mail, from Ms. Rosson's son, was straightforward: "My family owns an album that has a photograph of your painting. This was something my grandfather lost in the 1930s." The irony was that, although Ms. Rosson's nephew (now deceased) had apparently tracked the work to Denver a few years earlier, he had—for reasons not known—not notified the museum. It was only after his death in 1997 that Ms. Rosson herself pressed the search. After the museum was contacted by the family, it launched its own investigation. It became convinced that the Rosson family claim was valid, and agreed to return the work. Of special note is that litigation was never an issue. The formal deaccessioning process, however, took several months.

A joyous Rosson told IFAR that she "remembered the painting well. It hung in the Green Salon, where my mother played bridge. Now it will hang in my son's living room. He will inherit it after my death. It wouldn't be right to sell it. It's the first work from my family's collection that I've recovered."

IFAR first reported on this story in

1986 (see *IFARreports*, June 1986). We should note that it was Ms. Rosson's nephew who contacted IFAR at that time about the missing Hartog collection. The cover of the issue featured one of the missing paintings, a landscape by Théobald Michau (Fig. 3).

The Letter is the first work from the collection to be returned to the family, although there are currently leads to other works. Ms. Rosson has been aided in her search by, among others, the Holocaust Claims Processing Office of New York State and The Art Loss Register. We are including here photos of some of the works that are still missing (with attributions provided by the family and descriptive titles), to help locate them. (Figs. 4–8)

—S.F.

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Figure 3. Cover, *IFARreports*, June 1986, showing *River Landscape* by Théobald Michau. Formerly coll. Paul Hartog, Berlin.

Figure 4. Balthasar van der Ast (1590-1656), *Vase of Flowers*. Oil on copper, 33 x 25 cm. Formerly coll. Paul Hartog, Berlin.

Figure 5. Jacob Ochterfeldt (1634-1682). *Standing Woman Reading*. Formerly coll. Paul Hartog, Berlin.

Figure 6. Jean-Baptiste Nattier (?) (1678-1726), *Portrait of a Young Woman*. Formerly coll. Paul Hartog, Berlin.

Figure 7. Antonio Canale (called Canaletto) (1697-1768). *Venetian Scene*. Formerly coll. Paul Hartog, Berlin.

Figure 8. Lodewyk de Vadder (1605-55), *Dutch Landscape*. Oil on panel. 30 x 40 cm. Formerly coll. Paul Hartog, Berlin.

De Chirico Forgeries: The Treachery of the Surrealists

WILLIAM H. ROBINSON*

The author Daniel Filipacchi recalls the following conversation with Giorgio de Chirico.

> *De Chirico*: "I hope there won't be too many fakes in your book."
>
> *Filipacchi*: "I hope there won't be any at all, . . . and that will be entirely dependent on you."
>
> *De Chirico*: "Not so sure," he answered, shrugging his shoulders, without a hint of a smile.[1]

We have all heard that Giorgio de Chirico forgeries are circulating through the art world. Yet, the origin and extent of the problem remain the subject of contentious debate. A growing body of evidence now suggests that the artist's own Surrealist colleagues produced many of the fakes, and that the Surrealists did not limit themselves merely to forging de Chirico. This article examines the current state of research on several alleged forgeries, as well as Surrealist complicity in their production. It incorporates research conducted over several years by the author and Marcia C. Steele, conservator of paintings at the Cleveland Museum of Art, working collaboratively with colleagues at major museums in the United States and Europe.[2]

The Surrealist forgery controversy first came to public attention in June 1946, when de Chirico demanded that the police close an exhibition of his paintings at the Galerie Allard in Paris, claiming it contained numerous fakes. Two years later, de Chirico accused the Venice Biennale of representing him with a forgery. Widely reported in the press, these scandals gave de Chirico an international platform for accusing art dealers, museums, and his former Surrealist colleagues of deliberately circulating and promoting forgeries of his early metaphysical paintings.

For decades de Chirico's assertions were not taken seriously, partly because James Soby, curator at the Museum of Modern Art and the world's leading authority on de Chirico, proved that the artist had denounced several genuine paintings. Additionally, de Chirico undermined his own credibility by painting backdated copies and "replicas," i.e., works imitating his early metaphysical manner. This practice complicated the attribution question because it was widely suspected that at least some of the alleged forgeries were actually the artist's own *verifalsi* (real fakes).

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After de Chirico's death in 1978 evidence slowly began surfacing in support of his accusations. Several individuals reported that the artist Remedios Varo had confessed to assisting Oscar Domínguez, a Surrealist colleague of the poets André Breton and Paul Eluard, with painting de Chirico forgeries.[3] In 1994 Paolo Baldacci and Wieland Schmied of the Fondazione Giorgio de Chirico published a

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1. *Surrealism: Two Private Eyes, The Nesuhi Ertegun and Daniel Filipacchi Collections* (New York: Solomon R. Guggenheim Museum, 1999), p. 26.

2. I would also like to thank Sióbhan Conaty, Kenneth Bé, and Myna Stanton for research assistance, along with conservators and curators at MoMA, NY; The Menil Collection; The Wadsworth Atheneum; Yale University Art Gallery; the Albright-Knox; the Munson-Williams, Proctor Institute; the Toledo Museum of Art; SF MoMA; the Tate Gallery; the Musée de Beaux-Arts, Brussels; the Hamburg Kunsthalle; the Kunstmuseum Ehrenhof, Düsseldorf; the Sprengel Museum, Hannover; the Van-der-Heydt Museum, Wuppertal; the Staatsgalerie, Stuttgart; the Museo Reina Sophia, Madrid; the Gallerie Nazionale d'Arte Moderne, Rome; and the Fondazione Giorgio de Chirico, Rome.

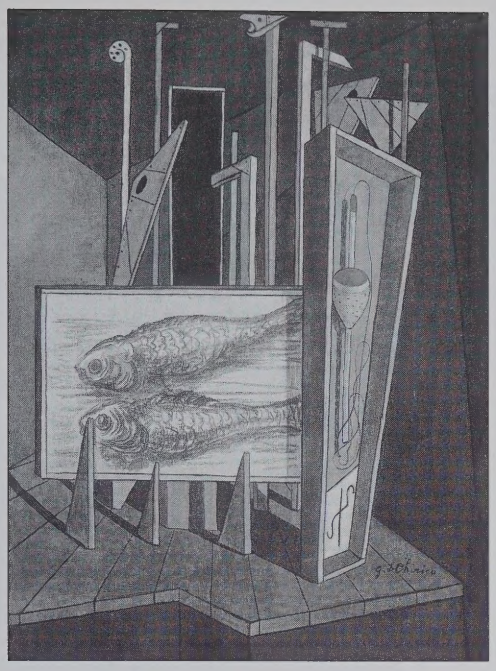


Figure 1. Giorgio de Chirico, or forger. *Metaphysical Interior*, 1917, or 1935-45? Oil on canvas. 73.2 x 54 cm. The Cleveland Museum of Art, John L. Severance Fund 81.51.

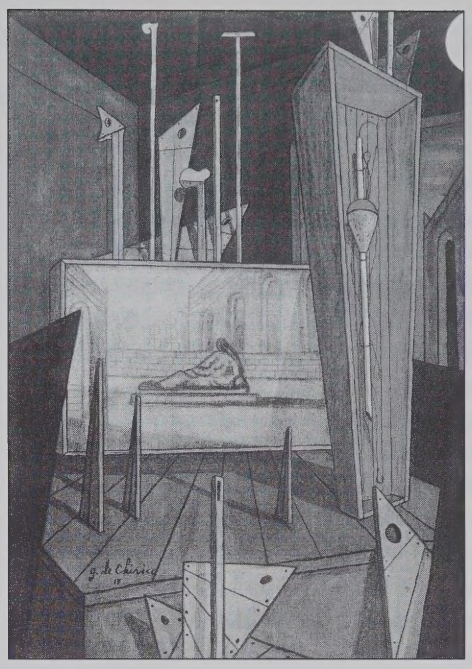


Figure 2. Alleged forgery by Oscar Domínguez. *Metaphysical Interior with Italian Piazza*, signed "G. de Chirico [19]17." Oil on canvas. 80.6 x 65 cm. Sprengel Museum, Hannover.

catalogue that identified potential de Chirico forgeries in numerous museums and private collections in the U.S. and Europe, including *Metaphysical Interior* in the Cleveland Museum of Art (Fig. 1 and Journal cover) and *Metaphysical Interior with Italian Piazza* in the Sprengel Museum, Hannover (Fig. 2)[4]:

Museums with questioned de Chirico paintings include the:

- Kunstmuseum, Düsseldorf
- Kunsthalle, Hamburg
- Sprengel Museum, Hannover
- Von-der-Heydt Museum, Wuppertal
- Musées Royaux des Beaux-Arts de Belgique, Brussels
- Cleveland Museum of Art

Baldacci and Schmied further alleged that all the forgeries were painted by Domínguez during the years 1939-45, and that Breton and Eluard collected and sold the fakes for personal profit.

René Magritte, E. T. Mesens, and Max Ernst are among the other Surrealists suspected of producing de Chirico forgeries. Jürgen Pech, director of the Max Ernst Kabinett in Brühl, Germany, recently proposed that several works formerly attributed to de Chirico are actually forgeries by Ernst.[5] Pech views this activity as a quintessential Surrealist strategy for subverting traditional conventions of authorship and originality. The art historian Michèle Cone uncovered another possible motive. She has observed that during the Nazi occupation of Paris, Domínguez and Eluard may have sold forgeries to visiting art collectors from Germany, then funneled the profits toward aiding the Resistance.[6] Understanding this complex situation requires some background information about de Chirico, his relationship with the Surrealists, and the Parisian art market.

. . .

The son of an Italian engineer, Giorgio de Chirico (1888-1978) was born in Greece and studied art in Athens and Munich. In 1911 he moved to Paris, where his "metaphysical" paintings attracted the attention of two important supporters—the dealer Paul Guillaume and the poet-critic Guillaume Apollinaire. Drafted by the Italian army in 1915,

3. Remedios Varo (1908-1963) lived in France from the mid-1930s to early 1940s. Her admission of assisting Domínguez was reported by two colleagues and published in Janet A. Kaplan, *Unexpected Journeys: The Art and Life of Remedios Varo* (New York: Abbeville Press, 1988), p. 64.

4. Paolo Baldacci and Wieland Schmied, *Giorgio De Chirico: Betraying the Muse, De Chirico and the Surrealists* (London: Finarte, 1994).

5. Jürgen Pech et al., *Arnold Böcklin, Giorgio De Chirico, Max Ernst: Eine Reise ins Ungewise* (Berlin: Benteli), pp. 289-330.

6. Michèle C. Cone, *Artists Under Vichy* (Princeton, NJ: Princeton University Press, 1992), p. 117.

"Several individuals reported that Remedios Varo confessed to assisting Oscar Domínguez . . . with painting de Chirico forgeries. ...Magritte, Mesens, and Ernst are among the other Surrealists suspected of producing [them]."

de Chirico was assigned noncombat duties and resumed painting while stationed in Ferrara. However, the focus of his attention shifted toward the new genre of metaphysical *interiors.* Meanwhile, André Breton and Paul Eluard discovered the paintings the artist had left in Paris. They regarded these enigmatic images as prototypes for a new art concerned with exploring the hidden life of the unconscious. Not only did they admire these paintings, but they began acquiring them in significant numbers. Eluard even traveled to Rome in 1923 to purchase works directly from the artist.

In 1924 de Chirico left Italy to join the recently formed Surrealist movement in Paris. Frictions quickly developed, however, when the Surrealists discovered that their new colleague was simultaneously painting in a more traditional manner. In fact, de Chirico had been exploring this "alternative" approach for nearly five years. After demobilization in 1918, he began copying old master paintings in museums in Florence and Rome. The experience stimulated a new obsession with technique, or the craft of painting—which is to say, the antithesis of *meta*physics. Although increasingly preoccupied with conventional subjects (portraits, historical themes, still lifes, and nudes), he continued to churn out uninspired metaphysical paintings in response to market demand.

Not surprisingly, the Surrealists considered their colleague's "return to tradition" bourgeois and reactionary. So they pressed him to produce more works in the metaphysical manner, especially since his stock of early paintings was drying up. By 1924 the growing scarcity had already become a serious problem. When Eluard asked to buy two specific early paintings, de Chirico replied that those works were no longer available. He then countered with an offer to paint "copies" or "replicas" for only 1,000 Lira, quite a bargain compared to his price for an original.[7] De Chirico probably considered the offer equivalent to the traditional practice of painting additional versions of a subject at the request of a patron. And since he had already copied Raphael and Michelangelo, why not copy his favorite old master—himself? We may never know the full extent of de Chirico's practice of painting *verifalsi*, but scholars have identified nineteen different versions of *The Disquieting Muses*, the earliest dating from about 1918.[8] The fact that de Chirico continued this practice until his death in 197[illegible] complicates any effort to distinguish his authentic *oeuvre* from the outright forgeries by other artists.

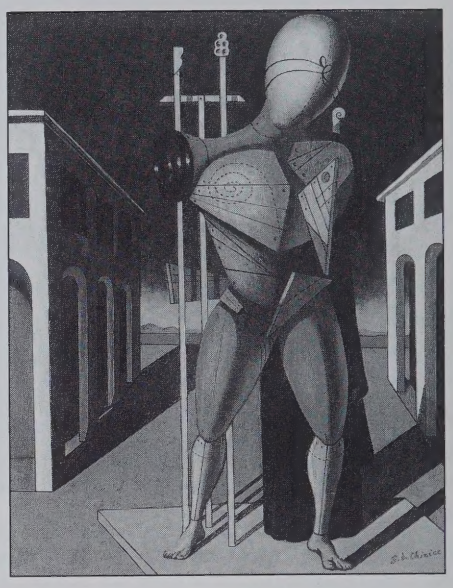


Figure 3 (top). Giorgio de Chirico. *The Troubadour,* ca,1935-50. Oil on canvas. 62.4 x 49.8 cm. Bridgestone Museum of Art, Ishibashi Foundation, Tokyo. Previously dated 1916.

Figure 4 (bottom). X-radiograph of *The Troubadour.* © Bridgestone Museum of Art.

7. De Chirico responded to Eluard's request in a letter addressed to the poet's wife, Gala, the text of which is published in James Thrall Soby, *Giorgio de Chirico* (New York: Museum of Modern Art, 1954), p. 134.
8. William Rubin et al., *De Chirico* (New York: Museum of Modern Art, 1982), p. 73.

The Bridgestone Museum in Tokyo recently turned to conservation analysis to resolve attribution concerns about *Troubadour* (Fig. 3), a painting they acquired under the assumption that it was a de Chirico of 1916. One can imagine their surprise when x-radiographs revealed an underlying figure (Fig. 4) painted in the artist's neo-Romantic or neo-Baroque style of the 1940s and 1950s. Bridgestone curators concluded that the metaphysical *Troubadour* on the surface cannot date from 1916, but instead, must be one of the artist's own *verifalsi*.[9]

CLEVELAND'S "DE CHIRICO"

Unfortunately, x-radiography has not yielded any useful information about *Metaphysical Interior* (Fig. 1), a painting the Cleveland Museum of Art purchased in 1981. Although the museum knew about the problem of de Chirico forgeries, the painting's physical appearance and provenance seemed sufficient proof of its authenticity. Signed but not dated, *Metaphysical Interior* was previously owned by two important de Chirico collectors, Paul Eluard and Bernard Poissonnier. It was also previously authenticated by two distinguished scholars, James Soby and William Rubin.[10] Rubin even included it in his 1982 de Chirico retrospective at MoMA. Based on style and subject, Soby and Rubin dated the painting approximately 1917, thereby placing it with the metaphysical interiors painted in Ferrara during World War I.

Paolo Baldacci and Wieland Schmied dispute that attribution. They insist that the Cleveland painting could *not* have been executed in Italy because it is painted on "French canvas and stretchers from the 1920s."[11] We decided to test their theory by examining a variety of paintings by de Chirico and Domínguez, including most of the other alleged forgeries, using conservation laboratory equipment whenever possible. But first, we consulted old reviews, newspaper articles, and illustrated catalogues to define a control group of unquestionably genuine paintings that would serve as points of comparison with the questionable works. We also sought the advice of conservators at other museums, many of whom assisted with the examinations.

Our examinations uncovered serious problems with previous descriptions of media and materials. For example, the Cleveland *Metaphysical Interior*—supposedly painted on "French canvas and stretchers from the 1920s"—is actually supported by a five-member *strainer* (a nonexpandable wood frame with nailed lap joints, rather than adjustable keys). This type of cheap, commercial strainer does appear to be of French origin. However, the secondary support turns out to be entirely irrelevant to the authenticity question because visitors to Paul Guillaume's gallery in Paris report that de Chirico's paintings were often stored rolled up.[12] So it should not be surprising that such works—even if painted in Italy—would be mounted on "French" strainers. This undoubtedly explains why conservation records at MoMA indicate that *The Sacred Fish*, a securely documented work painted by de Chirico in Italy in 1919, was originally mounted on exactly the same type of "French" strainer.

With respect to canvas type, the Cleveland *Metaphysical Interior* is painted on a medium-weight canvas with a tight, regular weave of 19 by 22 threads per square centimeter. It is true that this type of canvas is *not characteristic* of de Chirico's paintings of the Ferrara period, which are more commonly painted on canvas with finer threads and a loose, open weave. However, de Chirico did use this type of canvas for two undisputed paintings, *Self-Portrait* of ca. 1920 at the Toledo Museum of Art and *Metaphysical Interior (L'Après-midi d'été)* of 1925 at Yale University Art Gallery.

Despite considerable effort, we have been unable to identify any consistent pattern of canvas or stretcher type in the alleged Domínguez forgeries of de Chirico. Some are painted on loose, open-weave canvas that is entirely different from the more tightly-woven canvas of the Cleveland painting. And while the Cleveland painting is mounted on a *strainer*, other alleged forgeries are mounted on a variety of auxiliary supports, including 19th-century LeFranc and Bourgeois *stretchers*, clearly identified by stamps. Consequently, we have concluded—at least for the time being—that *the comparative analysis of canvas or stretcher*

> "We have concluded—at least for the time being—that comparative analysis of canvas or stretcher type is an unreliable methodology for assigning de Chirico attributions."

9. Kichijoji Naoka, "De Chirico's Hidden 'Self-Portrait'," *Hidden Faces, Hidden Portraits: The Scientific Examination of Works of Art* (Tokyo: Bridgestone Museum of Art, 1993), p. 45.

10. Letters in the Cleveland Museum of Art, Paintings Department files. Soby examined and authenticated the painting in the 1970s. The Soby files at MoMA contain a photograph of the painting documenting that it was part of Bernard Poissonnier's collection by at least 1952.

11. Baldacci (1994): p. 92. Schmied made the same charge in *De Chirico und sein Schatten* (Munchen: Prestel, 1989), p. 75.

12. Pierre Naville, *Le Temps du Surréel, l'espérance mathématique* (Paris: Galileé, 1977), p. 209.

type is an unreliable methodology for assigning de Chirico attributions.

Another recurring problem with the de Chirico literature is incomplete or inaccurate description of media. For example, de Chirico developed a distinctive technique of inserting areas of drawing into his oil paintings, as exemplified by the two fish in the Cleveland *Metaphysical Interior* (Fig. 1). Exhibition catalogues often describe such paintings merely as "oil on canvas." When the drawing medium is mentioned, it is usually referred to as graphite. Examinations with a stereo-microscope, however, reveal that this medium is actually charcoal, and charcoal underdrawing can be found under many—but not all—of his painted forms. This holds true for both the Cleveland *Metaphysical Interior* and de Chirico paintings in the control group.

DID DOMÍNGUEZ PAINT IT?

The consequences of misidentifying media become apparent when Baldacci cites the following as a reason for attributing the Cleveland painting to Domínguez: "Against a white, oil painted background, he [Domínguez] used a brush to feign drawing, resembling the designs de Chirico created using a pencil."[13] This observation is incorrect, as the fish in the Cleveland painting are, in fact, rendered in charcoal, a technique frequently used by de Chirico, but rarely if ever found in the Surrealist paintings of Domínguez.

Baldacci also attributes the Cleveland *Metaphysical Interior* to Domínguez because "a stylistic comparison with authentic works by Domínguez from the same period makes the attribution obvious."[14] Not everyone agrees. Our examinations do not indicate such a close stylistic relationship. The Surrealist paintings of Domínguez possess noticeably stronger, more opaque colors. By contrast, the Cleveland *Metaphysical Interior* is painted so thinly that the charcoal underdrawing often remains visible beneath the painted forms, as evident in the outlines of the box surrounding the fish. The painted lines in the Surrealist paintings of Domínguez are also discernibly heavier and more freely applied than those in the Cleveland *Metaphysical Interior.*

Despite our reservations about certain aspects of their methodology, we believe Baldacci and Schmied should be commended for addressing the controversy and identifying a number of paintings previously attributed to de Chirico as forgeries by Domínguez. The Sprengel Museum's *Metaphysical Composition with Italian Piazza* (Fig. 2), signed "G. de Chirico [19]17," apparently belongs to this category.[15] Baldacci and Schmied are also correct in arguing that the Cleveland canvas is not what scholars previously assumed—an early metaphysical interior de Chirico painted around 1917. The support for this view resides in the striking discrepancies in style and technique between the Cleveland painting and those in the control group, such as *La révélation du solitaire* of 1917 (Fig. 5). Most notable is the greater detail and delicate modeling of the fishing float in *La révélation.* Equally revealing is how differently the wooden spindle enters the top of the float in *La révélation,* and how the fishing thread coils around the float, thereby passing from light to shadow in a way that enhances the illusion of three-dimensionality. Such glaring dissimilarities make it difficult to believe that these paintings were executed by the same artist in 1917.

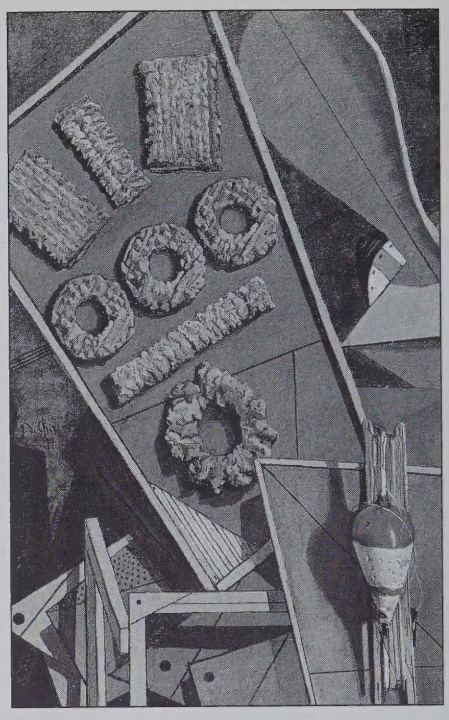


Figure 5. Giorgio de Chirico. *La révélation du solitaire,* 1917. Oil on canvas. 45.8 x 30.2 cm. Private Collection.

There are other reasons to doubt the 1917 date assigned to the Cleveland *Metaphysical Interior.* During the war years, de Chirico typically created highlights with a painterly impasto not found in the Cleveland painting. Equally revealing is the way de Chirico layered his surfaces, for instance, creating a sky by applying a light green over a darker green, or a tower by painting a dark rose over a light pink. This layering technique, essential for enriching modeling and spatial depth, is characteristic of the control group, but completely absent from the Cleveland painting.

In this light, Baldacci and Schmied's attribution of the Cleveland *Metaphysical Interior* to Domínguez appears rea-

13. Baldacci (1994), p. 92.
14. Ibid.
15. This painting was in the 1946 Galerie Allard exhibition. De Chirico himself declared it a forgery after seeing it in Hannover, but it should be remembered that the artist was known to have denounced genuine paintings.

sonable and, indeed, there are similarities. Yet, we are troubled by certain subtle, yet discernable differences between the Cleveland and Sprengel paintings (Figs. 1 and 2). For instance, the Sprengel composition is more cluttered, the space awkward and confused. There is also an excessive, almost compulsive over-elaboration of details in the Sprengel painting, as seen in the proliferation of nail holes, the lines segmenting triangles, and the simulated woodgraining on boxes and triangles created with streaky black paint. This clumsy simulation of woodgrain is particularly significant because it appears repeatedly in the Surrealist paintings of Domínguez, as well as in most of the other alleged forgeries, thereby implicating Domínguez as the forger of the Sprengel painting. It may be equally significant that this technique is completely absent from the Cleveland painting.

Other stylistic differences distinguish the Cleveland and Sprengel paintings. The fishing line (in the box on the right side) in the Sprengel painting hangs more loosely and has no shadow. The float's top is painted with a single stroke of red, the wooden spindle with a single stroke of white. By contrast, the corresponding objects in the Cleveland painting are modeled with grays and whites. Close examination of the Sprengel painting also reveals that the holes in the cork of the fishing float were created through the application of a single, long stroke of black, highlighted by another single, long stroke of white. Conversely, the cork holes in the Cleveland painting were produced through a more complex technique of twisting, lifting, then reapplying the brush. The more cursory technique of the Sprengel painting again links it to the Surrealist paintings of Domínguez, where it was often used for painting cracks in masonry. This technique again points toward Domínguez as the forger of the Sprengel painting, but raises doubts about a Domínguez attribution for the Cleveland *Metaphysical Interior.*[16]

WHO IS *THE ARTIST?*

If Domínguez did not paint Cleveland's *Metaphysical Interior* and it turns out to be a forgery, then who painted it? Perhaps documentary evidence can provide the answer. We know the painting was first exhibited in 1952 as part of Bernard Poissonnier's collection.[17] Poissonnier said he acquired the painting from Paul Eluard, whose daughter, Cécile, has verified that her father owned the painting "avant la guerre," meaning at least prior to May 1940.[18] For this and other reasons, we believe the Cleveland *Metaphysical Interior* was probably painted by a Surrealist in Paul Eluard's circle. For now, we have decided to call this artist "Surrealist X." But who is Surrealist X? There are three possibilities. First, it might be a de Chirico *verifalsi* from the 1930s. Second, we have not yet ruled out Domínguez entirely, although this seems feasible only if Domínguez was more varied that we believe. Third, one of Eluard's former companions recently proposed that it was painted by Max Ernst. This theory should not be taken lightly considering that Ernst painted the earliest known de Chirico forgery.

It is important to remember that in the early 1920s Ernst lived for a time with Eluard, an avid de Chirico collector. Cécile Eluard recalls that Ernst "amused himself by making pastiches in the manner of de Chirico," and that her father owned a "copy" of de Chirico's *Enigma of an Autumn Afternoon* of ca. 1909, an oil on canvas painted by Ernst and falsely signed with the Italian artist's name.[19] We will probably never know if Ernst intended this "copy" as a Dadaist gesture in the spirit of Duchamp's *L.H.O.O.Q.*, or as a personal joke and gift to Eluard, his friend and patron. It is also intriguing to observe that Ernst painted this "copy" around the same time that Eluard discovered he could no longer buy early metaphysical paintings from de Chirico because the artist's stock had run dry, prompting de Chiri-

"As for Eluard, he must have been amused at the prospect of owning "imitations" of de Chirico's early metaphysical paintings by *both* de Chirico and Ernst, thereby forming pendant *verifalsi*."

16. Recent re-examination of the Sprengel Museum's painting with a stereo-microscope has revealed the probable presence of charcoal in the grisaille scene. It is easy to misidentify the medium because the charcoal was smeared by a layer of heavy varnish. A similar effect appears on the far right side of the grisaille scene in the Cleveland painting, where the long, vertical shadow at the far left was created with a light-brown glaze. Similarities between the two grisaille scenes have led us to conclude that it is more likely that the two paintings are by the same artist than we previously believed.

17. *Phantastiche Kunst des XX Jahrhunderts* (Basel: Kunsthalle, 1952), nr. 50. It was previously believed that the Cleveland painting was shown at the Musée du Jeu de Paume in 1937 in an exhibition of Paul Eluard's collection. However, there is no evidence that such an exhibition ever occurred. The error apparently derives from confusion with the exhibition *Origins et développement de l'art international indépendant* (Musée Jeu de Paume, Juillet-Octobre, 1937), the unillustrated catalogue of which lists a de Chirico painting titled *Intérieur métaphysique* from the Eluard collection. However, installation photographs indicate that the Cleveland painting was not in this exhibition, and the catalogue citation refers to a different work of the same title.

18. Signed statement in the files of the Cleveland Museum of Art, Paintings Department. This handwritten statement by Poissonnier was supplied with the painting upon its purchase from E.V. Thaw in 1981.

co's counter offer, cited above, to paint "replicas." One wonders whether Ernst may have painted his "pastiches *à la de Chirico*" as witty rejoinder to the Italian artist's practice of copying himself. As for Eluard, he must have been amused at the prospect of owning "imitations" of de Chirico's early metaphysical paintings by *both* de Chirico and Ernst, thereby forming pendant *verifalsi.*

Jürgen Pech believes that the "copy" Ernst painted of *Enigma of an Autumn Afternoon* was not the end of the artist's involvement in the production of de Chirico forgeries. Pech recently proposed that Ernst returned to this practice in the mid-1930s.[20] Pech's theory may explain a curious feature of an alleged de Chirico forgery in the Kunstmuseum, Düsseldorf. X-radiographs of this painting (Fig. 6) reveal the presence in the underlayers of a brightly colored rooster standing on a lamp or picture frame and surrounded by masklike faces. This rooster is remarkably similar to the crowing cocks in Ernst's collage series *Le rire du coq* of 1934 (Fig. 7), while the hidden faces are reminiscent of the mask-wearing

Figure 7. Max Ernst. *Le rire du coq* [plate no. 12]. Collage illustration for *Une semaine de bonté*, 14.3 x 11.1 cm. Photo courtesy of the Art Institute of Chicago.

Figure 6. X-radiograph of alleged forgery of Giorgio de Chirico, *Metaphysical Composition*, ca.1939-45. Oil on canvas. 83 x 61 cm. © Kunstmuseum Düsseldorf im Ehrenhof.

figures in another Ernst collage series, *L'île de pâques* of 1936. A nearly identical crowing rooster also appears in a collage-object owned by André Breton (MNAM, Centre Pompidou, Paris) and illustrated in the article, "Unconscious Motivations for Suicide," published in the journal *La Révolution Surréaliste.*[21] The exact relationship between these images remains a mystery, but they point toward common iconographic sources shared among the Surrealists.

If Ernst did paint the Cleveland *Metaphysical Interior* for Eluard, this gives a different meaning to the fishing float and fish. Jürgen Pech observes that the first issue of the magazine *La Révolution Surréaliste* contained an illustration by Ernst and Max Morise depicting a fish inscribed with the word "Surrealism." This fish apparently refers to the Surrealist activity of delving into the subconscious like an exploratory submarine—a metaphor inspired by Breton's collection of poems titled, *Soluble Fish*, published in the *First Manifesto of Surrealism*, to illustrate the technique of psychic automatism. "A bowl full of goldfish," Breton wrote, "swim in my head and in this bowl there are only soluble fish, . . . man is soluble in his thought."[22] In other words, if Ernst did paint the Cleveland *Metaphysical Interior* for Eluard, he could not have selected a more appropriate image for their shared devotion to Surrealism.

Pech also views the production of forgeries by the Surrealists as an activity aimed at undermining preconceived notions of art and reality, comparable to Magritte's con-

20. Pech (1998), pp. 320-25.

21. J. Frois-Wittman, "Mobiles inconscients du suicide," *La Révolution Surréaliste* 12 (Décembre 1929), pp. 41-4.

22. Mark Polizzotti, *Revolution of the Mind: The Life of André Breton* (New York: De Capo Press, 1997), p. 206.

joining of antithetical images and words. Pech notes that Ernst once altered Magritte's painting *This is not an Apple* (Ertegun-Filipacchi Collection) by adding the inscription: "Ceci n'est pas un Magritte." As with the game *The Exquisite Corpse*, the Surrealists subverted conventional art-making strategies by approaching the creative process as a philosophical issue: if someone paints an image using de Chirico's characteristic metaphysical themes and style, who is the true author? Is it not still "a de Chirico"?

As previously noted, Michèle Cone has identified another possible motivation for the production of forgeries by the Surrealists. After the fall of France in June 1940, a group of Surrealists gathered at a château near Marseilles, where they spent months trying to raise money to emigrate. This group included many individuals implicated in the forgery controversy, including Breton, Ernst, Domínguez, and Remedios Varo. In early 1943, Domínguez returned to Paris and put his forgery skills at the service of the Resistance by training others in the production of false identity papers. He also resumed his friendship with Eluard, as well as his practice of painting forgeries. Ironically, German collectors of modern art, including Werner Rusche of Cologne and Bernard Sprengel of Hannover, who frequented art galleries in Paris during the occupation, may have unwittingly supported the production of Surrealist forgeries.

Unfortunately, we may never find a definitive answer to the question of who painted the Cleveland *Metaphysical Interior* because most of the people involved in the production and marketing of Surrealist forgeries are dead. Ernst, Domínguez, Eluard and de Chirico undoubtedly knew the answer, but took the secret to the grave. From them we have apparently inherited some sort of Surrealist game, an intellectual sleight of hand, an iconoclastic gesture thumbing its nose at the art market and its self-appointed "experts." This ambiguous situation has even given younger scholars an opening to reinterpret de Chirico as a proto-postmodernist whose "copies" challenge modernist myths of originality and authorship.

For now, we remain reasonably confident that the Cleveland *Metaphysical Interior* was painted by one of three artists associated with the Surrealist movement—de Chirico, Domínguez, or Ernst—sometime between 1935 and 1945.[23] Meanwhile, we hope anyone who knows more about the production, marketing, and collecting of Surrealist forgeries in Paris during the 1930s and 1940s will come forward with that information.

23. There are several analytical techniques we did not—and could still—attempt, such as pigment sampling and scanning electron microscopy. Further, we now believe our results were affected—far more than we anticipated—by the disparity in equipment and varying conditions under which the paintings were examined. Ideally, all the works should be examined in a single laboratory. Of course, there is no guarantee that this would produce definitive results. On the contrary, it might affirm our interim conclusion that scientific analysis is of limited value for resolving attribution questions involving Surrealist art forged by the Surrealists themselves.

■ ■ ■

IFAR Art Authentication Service

For thirty years, IFAR has offered a unique Art Authentication Service, which works to resolve questions concerning the authenticity and attribution of works of art. As a not-for-profit organization with a distinguished Art Advisory Council and a worldwide network of scholars, IFAR is free to render objective opinions unaffected by the marketplace.

IFAR offers its services to individuals, dealers, museums, and other institutions. We examine art only for the owner, or with the owner's consent. We are only able to accept a limited number of projects each year. As an educational organization, IFAR reserves the right to publish the results of its research.

For additional information, please call (212) 391-6234 or go to www.ifar.org.

The FBI's Role in Art Fraud and Theft: An *IFAR Evening*

EDITOR'S NOTE: *On November 14, 2000, IFAR hosted an evening on the FBI. Four members of the FBI, from Boston, New York, and Washington, took a captivated audience behind the scenes of the agency and also brought us up to date on the Isabella Stewart Gardner Museum theft. Still unsolved after ten years, the Gardner is the largest museum theft in U. S. history. The Supervisory Agent in charge of the Gardner case since it began, Thomas Cassano, spoke in depth. He was later joined by the Case Agent, Neil Cronin, for the panel discussion and Q&A that followed. Rather than simply summarize the program, we have included an edited transcript for Journal readers.*

FBI panel, *IFAR Evening*, November 14, 2000. Left to right: W. Thomas Cassano, Neil Cronin, Lynne Chaffinch, and Catherine Begley.

SPEAKERS:

Lynne Chaffinch
Art Theft Program Manager, FBI, Washington, DC

Catherine Begley
Special Agent, FBI, New York

W. Thomas Cassano
Supervisory Special Agent, FBI, Boston*

Neil Cronin
Case Agent, Isabella Stewart Gardner Museum Theft, FBI, Boston (participant in panel discussion)

LYNNE CHAFFINCH

I am the Program Manager for the Art Theft Program. Unlike the other speakers, I am not an agent. I worked in the museum field before I came to the FBI about four years ago. I have an art and computer background, and I provide support to the agents in the field. I am going to talk about the Art Theft Program, which is managed at FBI headquarters. We don't initiate investigations. All investigations are conducted by agents in the field assigned to our various field offices. FBI headquarters provides administrative support for the agents.

First I'm going to address international art theft, then move to national art theft, and end with a discussion of the FBI lab. When talking about art, in our Art Theft Program, we're not specifically defining it as fine or decorative art. We include any cultural property. So anything from rare baseball cards to coins and stamps to paintings and sculptures are included. Art theft is a major category of international crime. INTERPOL has estimated losses anywhere from $4 to $6 billion a year in stolen art. That includes theft of individual works of art, looting of archaeological sites, and illegal export. Cultural property is hard to define, and it's very difficult to put a dollar value on almost anything we handle. Most people whom we take reports from say "priceless," and of course we know nothing is priceless, but it is very difficult to put actual prices on the pieces that we handle.

Overseas thieves are much more organized than those in the United States. They tend to work more in groups, to know more about what they are taking, and be more knowledgeable about the art market. The art theft problem is a bit different here. Cultural property is stolen and looted from source countries in South America, Africa and Europe and brought to the U.S. for sale. The United States

> "The United States is a major consumer of stolen art."

is a major consumer of stolen art; New York is a major bastion. It's something that we need to be aware of because I've heard estimates that over 60% of the art purchased worldwide is purchased here in the United States and in the United Kingdom. Much stolen art is included in that. As a result, the FBI works with many other countries conducting foreign police cooperation cases.

* Retired from the FBI, March 31, 2001.

Figure 1. Gold backflap. Peruvian. Looted from a Moche tomb at the archaeological site in Sipán. Returned to Peru in 1998.

Figure 2. Reconstruction of a Warrior-Priest based on archaeological excavations at Sipán. Note the gold backflap visible at the waist. (Photo from University of Pennsylvania Museum exhibit, 1998.)

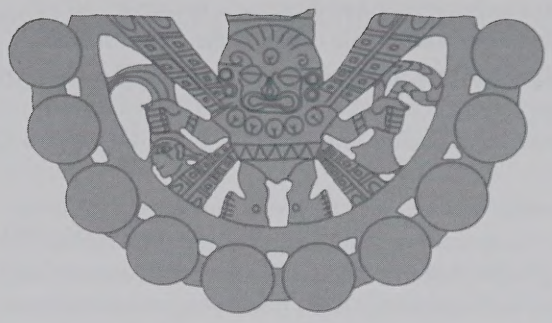


Figure 3. Schematic detail of the rattle with figure of the Decapitator. (Photo from University of Pennsylvania Museum exhibit, 1998.)

THEFT FROM SIPÁN

I'm going to describe one case, which involved the theft of a Peruvian gold backflap from Sipán. (Fig. 1) The Sipán site of Peru was built by the Moche culture, which flourished from approximately 100 B.C. to 700 A.D. An undisturbed royal tomb was discovered in the Sipán region of Peru in the late 1980's. It was a very significant find, equivalent to finding King Tut's tomb in Egypt. Immediately, restrictions were put on objects from Sipán, making it illegal to bring anything from Sipán into this country without a special export permit. Against these restrictions, Sipán artifacts were smuggled into the U.S. The gold backflap is a piece of ceremonial armor worn by the warrior-priest buried at Sipán. (Fig. 2) The backflap was documented at the site, and the FBI was able to readily identify it. The piece consists of about 2½ pounds of gold. The top has a design of the Decapitator which is unique to the Sipán site. The Decapitator holds a severed head in one hand and a knife in the other, and there are beads inside to make it rattle (Fig. 3).

Two men in Miami had access to the backflap and were looking for a buyer. They contacted a dealer who was actually an undercover agent acting as a dealer. They offered the backflap to our agent for $1.6 million. Of course our question was how were they going to get it into the U.S. given the import restrictions. They told us they had a friend named Frank, an employee at the Panamanian Consulate in New York, who would take care of that.

By this point they had sent us photographs of the backflap, which we then had authenticated. Every case we deal with is different, and we have to find the expert in that particular area of cultural property. The two suspects called our undercover agent and advised that the backflap was in the country; we made arrangements to meet them at the rest stop on the New Jersey Turnpike. Our undercover agent, along with another agent who came as the authenticator/appraiser, met the two art smugglers—Orlando Mendez and Dennis Garcia. "Frank," the mysterious employee from the Panamanian Consulate, was Francisco Humberto Iglesias, the Counsel General of Panama. (Fig. 4) He was the one who brought the backflap into the U.S. in his diplomatic pouch. At the time we could not

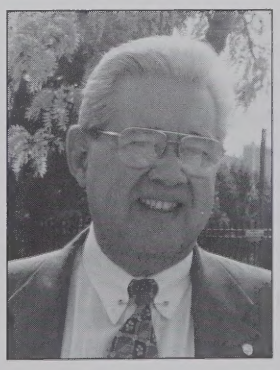


Figure 4. Francisco Humberto Iglesias, former Counsel General of Panama.

arrest him because he had diplomatic immunity. All we could do was take a photo of him at the scene. He went back to New York, and then flew to Panama. He is no longer Counsel General, and, as a result, he is a federal fugitive wanted by the FBI.

The other two men were prosecuted for conspiracy, interstate transportation of stolen property, and smuggling. I'm not going to cover violations or prosecution because Cathy Begley will address that issue. It was a huge event for Peru to get this artwork returned. The FBI agent and the Assistant United States Attorney involved in the case received awards from the Ambassador of Peru. Afterward, the University of Pennsylvania Museum of Archaeology and Anthropology borrowed the backflap from the Peruvian government and displayed it in an exhibit on illicit trafficking in cultural property. This is important because we want to make people aware of the problem.

SCOPE OF U.S. THEFTS

Most thefts in the United States are residential burglaries and mainly of lower value objects. You are going to hear tonight about a very large-scale case, the theft from the Gardner Museum, but most of the theft reports I receive daily are items worth $2,000, $5,000, $10,000, and $20,000. Thieves break into houses and steal anything that looks of value.

Fortunately, art theft in the United States seldom involves violence. We see more violence with regard to cultural property and theft overseas because it is more organized, more gang oriented there. In the United States, we see many thefts of opportunity. I recently had a theft where they broke open a back window with a brick and got into the house, stealing two paintings and four beers out of the refrigerator. That is the sophisticated level that we see here. Different kinds of objects are stolen overseas. In Europe, thieves steal furniture and other items requiring more organization and market knowledge. Here, more small items, which are very portable, are stolen.

I'd like to describe a case that explains what sort of theft we see in the United States. Here are three sculptures by the Russian artist Alexander Archipenko. (Fig. 5) These three sculptures plus three others, six in all, were put into three crates in Miami for shipment to New York to be sold at auction. Because of bad weather in Fort Lauderdale, they stopped for the night and left the van out in the parking lot. Of course, the next day the crates were gone. Now the people who took it had no idea what they got. I'm sure they were very disappointed when they opened those beautiful art crates and found these sculptures. So the thief took them to the local pawn shop and asked $100 for them. The pawn shop gave him $40 for the six sculptures that were worth approximately $650,000. The objects were reported to the Art Loss Register, which Sharon [Flescher] already mentioned is a private stolen art database here in New York. The theft was put on the front cover of *IFARreports*, the IFAR publication preceding *IFAR Journal.* (Fig. 6) It's important to get the theft information out to the public. The only way we are going to learn about things is if people contact us when they have seen something. The pawn dealer, not having any idea what he had, took the sculptures to an auction house to be identified. But the auction house had seen the theft report, and the sculptures were recovered.

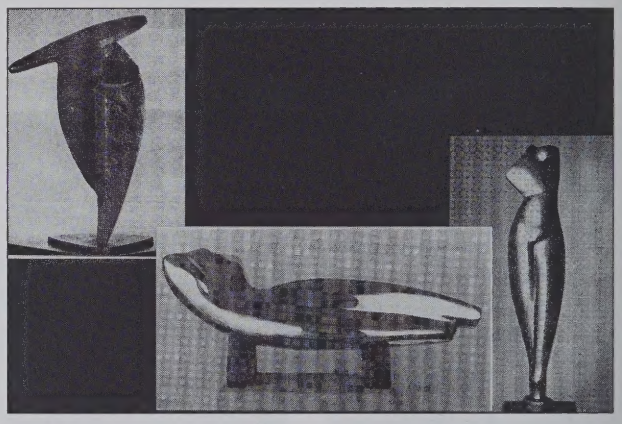


Figure 5. Three sculptures by Alexander Archipenko stolen in October 1995. Left to right: *Étude pour Femme á la Toilette*, 1913; *Torso in Space*, 1935; *Torso*, 1914.

We've also had people destroy objects. I had a theft at Pennsbury Manor where three "suspects" stole things that they called "antiques," such as old TVs. When they were children, the suspects had gone to Pennsbury Manor, William Penn's historic home, and knew there were items there which might be worth some money. They drove a van to the front door, kicked the door in, ran around and grabbed all they could, which was a little over fifty items, threw them into trash bags, and were gone before the police could get there.

About a week later, one of the suspects was stopped while driving down the road with a delicatessen safe in the back

"The pawn shop gave him $40 for the six sculptures that were worth approximately $650,000."

"We don't have a portrait of art thieves. . . . Most people imagine Pierce Brosnan and Rene Russo from 'The Thomas Crown Affair,' or Catherine Zeta-Jones in 'Entrapment,' crawling around in a little black catsuit."

of his truck. A police officer got suspicious and stopped him. So, as often happens when they get caught, he started telling us all the stories about his friends. It came out later that because there had been such extensive publicity regarding the theft, the very next day the thieves dumped all the stolen items into the Delaware River. The FBI went down with divers, and we were able to recover about thirty-seven of the fifty-some-odd pieces. The thieves had just left them in the trash bags and dumped them. We have to be careful because thieves will sometimes damage stolen items rather than get caught with them.

We don't have a portrait of art thieves. We have not seen any trends in age or race or nationality as we do in some crimes. Most people imagine Pierce Brosnan and Rene Russo from "The Thomas Crown Affair," or Catherine Zeta-Jones in "Entrapment," crawling around in a little black catsuit. But we don't see sophisticated people who are really knowledgeable in art committing these crimes.

IFARreports
Volume 16, Number 12
December 1995
and The Art Loss Register
Ten Important Art Thefts and Recoveries
DEA Case Links Art and Drugs
More Dali Trouble
Partial Recovery in Blatas Theft
Alexander Archipenko's Etude pour femme a la Toilette, 1915, one of six stolen in Fort Lauderdale, Florida, in October.
Fig. 6

Figure 6. Cover, *IFARreports*, December 1995, showing stolen Archipenko sculpture.

THE NATIONAL STOLEN ART FILE

The National Stolen Art File is a stolen art and cultural property database maintained in Washington, DC. It is a law enforcement database, so the FBI requires that theft reports come from a law enforcement agency. It doesn't have to be FBI; it can be local police, but we do require some sort of police report to legitimize the claim to the theft. We work with the other stolen art databases in the United States. INTERPOL maintains a database in Washington, DC which connects to their headquarters in Lyon, France. We also work with The Art Loss Register here in New York and also a multitude of smaller databases. There are specialized databases for musical instruments only, and there's one for stolen meteorites. I didn't know that until I had one stolen, and I went out and found it. Databases exist for a lot of specialized areas, so we try to keep track because people in that market will check those databases. We try to make sure that if we have something unique that we get it reported to that database.

"We try to encourage people to document their art *before* something happens to it."

One of our biggest problems in investigating art cases is lack of a description once an item is stolen. Because so many thefts are residential, the victim can't tell us how big the item was or if it was signed. Often they can name the artist or maybe a title, but that is not enough. We need to be able to say definitively that *this* painting or *this* sculpture is the one that was stolen from *this* residence on *this* date, and we have to be able to prove that to a judge. So we try to encourage people to document their art *before* something happens to it. We can't register it without a good description, and we cannot recover it. We need a detailed physical description and also a good photo. It doesn't have to be a publication quality image. But anyone here who deals with art on a regular basis, please be sure that if something does happen and we show up on your doorstep, that you can give us a physical description of the piece, or else there is nothing we can do to help you.

Object ID was developed by the Getty Museum, which interviewed arts organizations around the world and came

up with an international standard for describing stolen art. (Fig. 7) It's very basic descriptive information: dimensions, date, artist, title, subject, materials, inscription, any unique features, was it restored or torn? Object ID is used on the National Stolen Art File. These are the fields of information that the FBI will request from an owner or a victim. Object ID is not under the Getty anymore; it's under an organization in England called COPAT, The Council on the Prevention of Art Theft, and it has a new Web site.

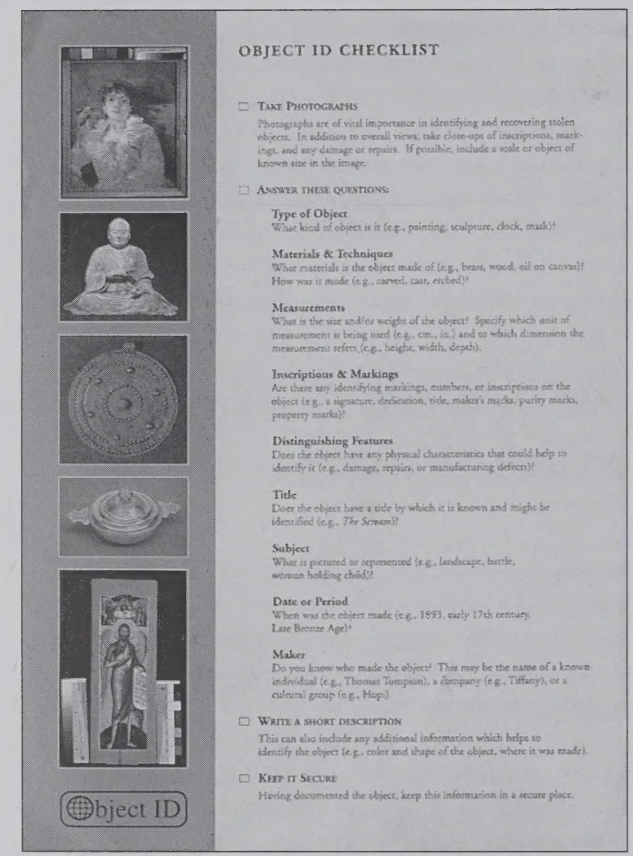

OBJECT ID CHECKLIST
☐ TAKE PHOTOGRAPHS
Photographs are of vital importance in identifying and recovering stolen objects. In addition to overall views, take close-ups of inscriptions, markings, and any damage or repairs. If possible, include a scale or object of known size in the image.
☐ ANSWER THESE QUESTIONS:
Type of Object
What kind of object is it (e.g., painting, sculpture, clock, mask)?
Materials & Techniques
What materials is the object made of (e.g., brass, wood, oil on canvas)? How was it made (e.g., carved, cast, etched)?
Measurements
What is the size and/or weight of the object? Specify which unit of measurement is being used (e.g., cm., in.) and to which dimension the measurement refers (e.g., height, width, depth).
Inscriptions & Markings
Are there any identifying markings, numbers, or inscriptions on the object (e.g., a signature, dedication, title, maker's marks, purity marks, property marks)?
Distinguishing Features
Does the object have any physical characteristics that could help to identify it (e.g., damage, repairs, or manufacturing defects)?
Title
Does the object have a title by which it is known and might be identified (e.g., The Scream)?
Subject
What is pictured or represented (e.g., landscape, battle, woman holding child)?
Date or Period
When was the object made (e.g., 1893, early 17th century, Late Bronze Age)?
Maker
Do you know who made the object? This may be the name of a known individual (e.g., Thomas Tompion), a company (e.g., Tiffany), or a cultural group (e.g., Hopi).
☐ WRITE A SHORT DESCRIPTION
This can also include any additional information which helps to identify the object (e.g., color and shape of the object, where it was made).
☐ KEEP IT SECURE
Having documented the object, keep this information in a secure place.
bject ID

Figure 7. Object ID Checklist.

The FBI also maintains some art theft notices on its Web page at www.fbi.gov. It posts these notices so that people will be more aware.

THE FBI LAB

I was specifically asked to discuss the FBI lab. . . . I am not a scientist, . . . so I am just going to provide a quick overview. The lab is broken up into different areas, the DNA areas, tool marks, and so on. (Fig. 8) The chemistry unit is the one that we work with most often, particularly the paint and polymer sub-unit. They are the people who analyze paints and canvases to help us with fraud and forgery cases. Most of what crosses my desk is fake, and I would say that 99% of what I see everyday is fake, not stolen, artwork.

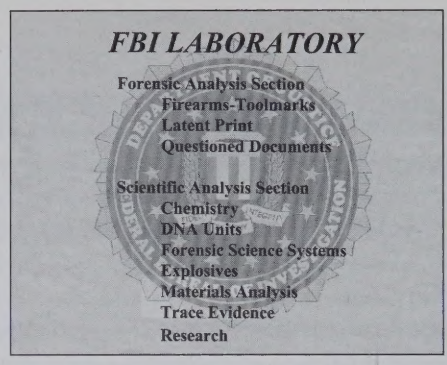


Figure 8. The FBI Laboratory's Forensic and Scientific Analyses Sections.

In a lot of our cases, we have to go to the lab, and, in addition, seek the connoisseurship of an expert. In front of a judge it helps us to be able to say that the paint is incorrect, that it couldn't possibly be that date, and we have had a few cases where that happened. The chemistry unit can analyze the binders, the medium that the pigment is in, in addition to the pigments themselves, and they will often work with the Smithsonian Institution on these sorts of cases to make sure we are not damaging the artwork. Some tests require that a small sample be taken, and if it's an actual $50 million masterpiece, you don't want to be doing that. I was told that plastic binders were not used in the artistic media prior to the 1940s. We have used that a few times where we have had a painting that was supposed to be from the 1920s and it had a contemporary binder for the pigments, and we were able to determine that it was a fake. So those are the things that the scientists do for us. They have the scanning electron microscopes and equipment for x-rays so that we can look underneath the existing paint. We also have lab sections that do hair and fiber analysis, and exams of other trace evidence, which are relevant for many of our crime scenes, not only for art theft.

CATHERINE BEGLEY

I want to talk specifically about the New York office, some of the federal violations that we work with to investigate art fraud and art theft cases, and then some cases. I'll go through the structure of the FBI, the investigative process and responsibilities of the FBI, the laws that we use to prosecute the cases, and then tell you how you can get assistance, which Lynne has touched on.

The FBI has fifty-six field offices with four hundred resident agencies—satellite offices that work out of the major cities. I bring this up because you saw all the cases that Lynne addressed. Many of those cases had leads or investigations that had to be done here in New York, so since we have offices throughout the country, a case agent such as Neil or myself will call another office and get the assistance we need. It works very quickly. Additionally, we have forty-

four legal attachés. Those are overseas offices manned by FBI agents within the embassies. In art cases that's very important because art fraud and art theft are international. In Paris, we have three agents who can interact with the different law enforcement agencies over there and accomplish the investigations very quickly.

Basically, the FBI investigates violent crimes, organized crimes, any drug-related offenses, white collar crimes, civil rights matters, terrorism matters, and national security matters. Within these different programs, we work all our different investigations. The squad that handles art fraud and art theft cases is located in Queens, New York. I don't know why since we should be here in Manhattan, but that is where we are. There is a staffing level of eleven agents for the office and that varies. We are responsible for the major thefts that occur in New York and also for assisting foreign police in investigations that they want to do here.

FEDERAL VIOLATIONS

Several federal violations underlie FBI cases. The violation invoked most frequently for the art theft cases is interstate transportation of stolen property, very important in art cases because a lot of the pieces are stolen in another state or country and end up here in New York. If someone knowingly and willingly transports something [across state borders], it's a federal violation. The sale or receipt of the stolen goods is very similar. Basically, it is a conspiracy to be involved in the transportation of stolen property. Theft of major artwork is a relatively new federal violation. We call this the museum statute. It affects anything from a museum. A museum is defined as any place that has cultural materials, and includes libraries. The statute affects objects older than one hundred years or whose value is greater than $100,000. The statute was enacted in 1994 after the Gardner Museum theft, but it has been used here in New York as well as in Philadelphia and I believe Miami. Wire fraud is the use of any kind of telephone or interstate communication to assist in a crime. The same thing with mail fraud, but the difference is that something doesn't have to be mailed out-of-state to be a federal violation. Theft from interstate shipment is of interest to the auction houses because if something is stolen as part of a consignment, it can be investigated under this violation. So, too, for the museums. If an exhibit is put on and a painting is stolen either before it goes on view or before it is returned to the owner, it can be investigated under this violation. The last violation is the Hobbs Act, which is the use of violence in any kind of theft. We invoke this very frequently in jewelry cases.

Getting assistance is very easy here in New York: You just either call the New York office [(212) 384-1000] or our office out in Brooklyn/Queens [(718) 286-7100]. We will take theft information even if there is no indication of interstate movement. We will look at the case with the potential of objects being moved in the future. You can call us with the information, and we will make the appropriate interviews and investigation.

THE CALDER CASE

I want to talk about a few cases that were investigated here in New York. One involves Sandy Rower [who recently gave a talk for IFAR]. Sandy is the grandson of Alexander Calder, and in the early 1990s, when he was in the beginning stages of putting together a catalogue raisonné on his grandfather, he noticed that many mobiles were coming from people with different, but similar names, usually Spanish surnames. The first name was usually Monica or Manuel, and the pieces could be anything from monumental sculptures to something that you would put on a desktop. An investigation was started in New York, and over a period of about seven years, interviews were done internationally, many of the artworks

"Several federal violations underlie FBI cases. The violation invoked most frequently for the art theft cases is interstate transportation of stolen property . . ."

were seized, and we also found that these two individuals were also consigning and selling paintings by the artist Romare Bearden. So it was the combination of the two. The case went before the grand jury here in the Southern District of New York, and both individuals were indicted. Soon after, they were put into a computerized system because we knew that they were out of the country. They owned a home in New Jersey and also in Spain. A sculpture that was in front of their home in New Jersey was similar to pieces that they sold to the auction houses. (Fig. 9) We knew that they were in Spain and that if either or both tried to return to this country, we would be able to pick them up at the airport.

Figure 9. Fake Calder sculpture at home of convicted forgers, Manuel Fernandez and Monika Rabassa.

It took us about two years to figure out that the gentleman was Manuel Fernandez, who was an FBI top thief target for many years. When he wasn't a successful thief, he was an artist who would copy other peoples' work. His wife was Monika Rabassa, and she did not return with him. He was a Spanish national, and our office was contacted when he came into Kennedy Airport. His wife was an American citizen, and, soon after, we were able to extradite her here to face charges. What is interesting about this case is that they were recently sentenced here in New York. The judge apparently was a big fan of Calder and thought it was awful that the market had been flooded with fake pieces. He sentenced both of them to close to three years in jail, the time they had served and additional time, and they were fined $2.8 million. We have taken quite a few of the pieces off the market.

BUTLER LIBRARY THEFT

Another New York theft case concerned rare manuscripts, historical documents, and presidential letters from the Butler Library at Columbia University in New York. The theft was noticed when an historian went to the stacks to take some of these documents out of their binders and found that about thirty manuscripts, about forty presidential letters, and also the patent papers of Thomas Alva Edison were missing. The librarian contacted the FBI. We took the information and did initial interviews at the location. Lynne [Chaffinch] mentioned that there are a lot of individual groups, and one of them, The Book Dealers of America, is very active in looking for stolen property.

"... A judge in New York was so enraged that someone would steal these historical documents that he doubled the sentence. The case set a precedent for sentencing guidelines."

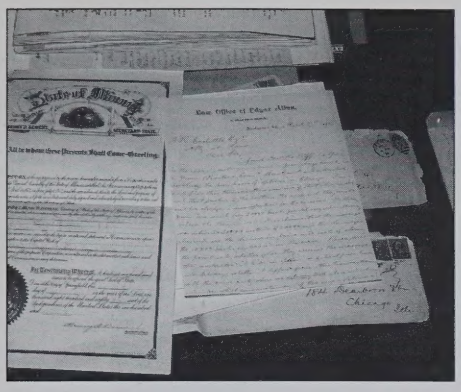
About a year after the theft, our office was called by Columbia University saying that one of the manuscripts was being offered for sale in the Netherlands. Our FBI agent assigned to the Brussels office notified the police, who were able to surveil the subject who was offering them for sale. We recovered Edison's patent papers, the presidential papers, and a number of medieval parchments (Figs. 10 and 11). In the Netherlands, an individual by the name of John Taylor was arrested by the law enforcement assisting us there. He agreed to be interviewed by our FBI agent. Based on that information, we searched in New York and recovered probably seventy-five percent of the manuscripts and the letters. John Taylor had all kinds of IDs on him at the time of arrest. We further identified him as Daniel Kikabidze and Daniel Spiegelman. He also used the name Craig Hesseltine. He actually went into archives and found that a child with that name had died and got that child's birth certificate. So he had two passports and would use them back and forth. We found that he had used the name Andreas Kessler to get into the stacks. When he talked to us in New York, he was actually going up to the stacks, which were above the library, in a dumbwaiter. He is a small individual, and he was able to bring down all of the books in the dumbwaiter and get them out in shopping bags. He pled guilty, but a judge in New York was so enraged that someone would steal these historical documents that he doubled the sentence. The case set a precedent for sentencing guidelines. Taylor finished out his five-year sentence at a halfway house in New York. About a year ago, while he was still at the halfway house, he contacted an autograph dealer in Greenwich, Connecticut. He actually got on a train and went to Greenwich, which made it another federal violation. He attempted to sell presidential letters and more of the Thomas Alva Edison documents. The Edison documents had become even more valuable, so, once again, he was hit with the maximum sentence of four years.

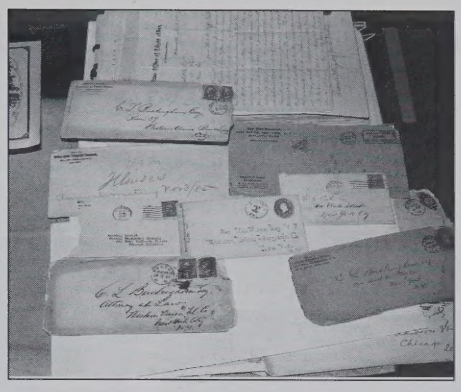
Recently, a 14th-century Belgian tapestry was brought to our attention when it was being offered at auction in New York. Soon after, we got a call from our office in Paris to say that it had been stolen from a gallery in Paris. We were able to trace that it was purchased by a rug dealer in New York who had consigned it to the auction house. A fence from Israel had sold it to the New York dealer. The tapestry was just returned to France by the Ambassador. This story ties in with other recent news that an Israeli was arrested for trying to sell stolen art to a gallery on 57th Street.

The FBI in New York has been involved with too many other cases to discuss them all in depth. These include the recent organized crime case involving fake art by Botero, Chagall and others; the theft of Malcolm X's diary; the case of the stolen Stradivarius; the Georges de la Tour *Madeleine* painting brought here illegally from France; and the notorious John Drewe art fraud case in London, concerning forged art and doctored provenances at the Tate Gallery. In that case, the New York FBI assisted Scotland Yard in recovering art here in New York.

W. THOMAS CASSANO

Good evening. I'm the FBI Supervisory Agent in Boston. I've been assigned to the Isabella Stewart Gardner case almost from the beginning. Neil Cronin, who [will join us for the panel], is the actual case agent. He does all the





Figures 10 and 11. Patent papers of Thomas Alva Edison and other Mss. stolen from Butler Library, Columbia University. Recovered by the FBI.

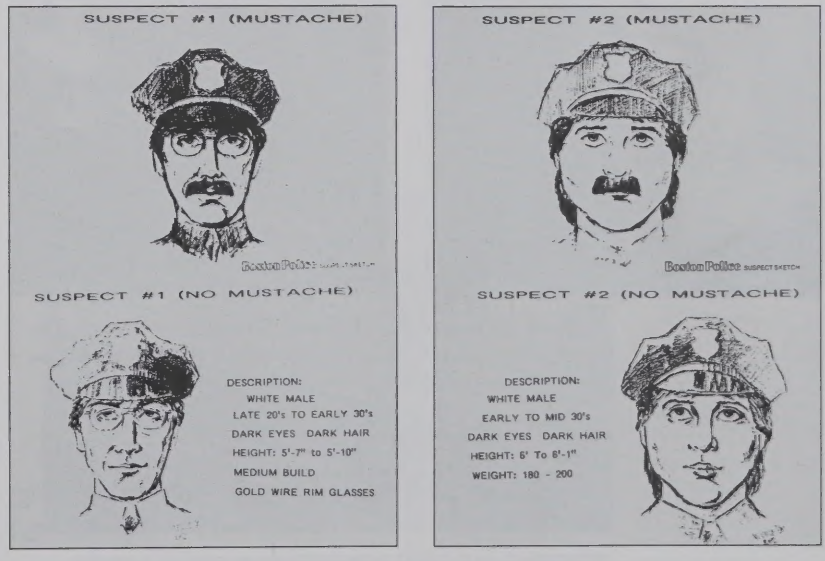
work, and I get most of the credit, but that's the way it's always been. This is a voluminous case. A massive amount of documents, interviews, and information has been amassed since the theft on March 18, 1990, and that is the reason that I have stayed with the case. I am not an art expert. I had never worked an art case prior to the Gardner case. I had absolutely no experience in art thefts at the time. However, since I've had it for 10 years, although I wouldn't call myself an expert by a long shot, I am quite familiar with the case. Again, Neil works the everyday leads, and I oversee the investigation.

The Isabella Stewart Gardner Museum is a very small museum on the Fenway in Boston. It was the residence of Isabella until she died in 1924, when it became a museum. In her will she indicated that the artifacts and the museum itself could not be added to nor taken away from; in other words, nothing could be sold in order to purchase something else and nothing could be added to the collection. Although there is a small room for temporary exhibitions, the museum has been the way it was since Isabella died, and that is one of the reasons that the items were not insured at the time of the theft.

THE GARDNER MUSEUM THEFT

At 1:45 in the morning of March 18, 1990 [the night after St. Patrick's Day], two individuals dressed as police officers knocked at the back door of the museum. (Figs. 12 and 13) One of the guards came to the door. The two individuals told him that they were investigating a disturbance that had occurred in the rear courtyard of the museum, and that they needed to get in. They were allowed to enter. They immediately asked the guard whether there was another guard on duty, and he said "yes." They asked him to bring him down, so they could talk to him—get everybody together. As soon as he arrived, they advised that guard that they had a warrant for his arrest, turned him around, handcuffed him, then handcuffed the other guard and advised them both that it was not an investigation of an intrusion in the backyard, it was a robbery. In fact it was very nicely said: "Gentlemen, this is a robbery." There were no weapons used. There were no weapons seen. They took the guards, handcuffed, to a remote part of the basement of the museum. They used rolls of duct tape to cover their eyes and mouths, sat them down, and handcuffed them to immovable objects. The guards were separated, and two times during the evening the thieves checked on them to make sure that they were ok. They didn't want them hurt. They didn't want them to suffocate or anything of that nature. They asked: "Are your handcuffs ok? Can you breathe ok?"

The surveillance tape that we recovered indicates that at that point, approximately twenty minutes after they had entered the museum, they walked upstairs to what the museum refers to as the Dutch Room [on the second floor]. The first two paintings that they attacked were the big Rembrandts: *The Storm on the Sea of Galilee*, which is the only seascape that Rembrandt ever did, and *A Lady*



Figures 12 and 13. Sketches of the Gardner Museum thieves disguised as police officers.

"The first two paintings [the thieves] attacked were the big Rembrandts. . . . They were pulled off the wall, their frames were smashed, and the paintings were cut from the inside border of the frame."

and Gentleman in Black. (Figs. 14 and 15). These were very large paintings in big frames. They were pulled off the wall, their frames were smashed, and the paintings were cut from the inside border of the frame. You can imagine that cutting a painting probably two hundred years old or better is not very good for the painting. We have indications that they then rolled the paintings, since there were a lot of chips of paint recovered from the floor.

After they took those two paintings, they went [to the opposite wall] and took *The Concert* (Fig. 16), which is one of the 34 or 35 known Vermeers in the world. That is probably the most valuable painting that was taken. They also took another very tiny Rembrandt, a self-portrait (Fig. 17). It's only about the size of a postage stamp or maybe a little bit bigger. Then they took a Flinck landscape (Fig. 18), which was attributed to Rembrandt. That is why it was with the Rembrandts. They then went to what is called the Short Gallery, also on the second floor. They took five works by Degas (Figs. 19-23) and then went to

Figure 16. Jan Vermeer. *The Concert.* Oil on canvas. Stolen from the Gardner Museum, 1990.

Figures 14 and 15. Rembrandt Harmensz van Rijn. Left: *The Storm on the Sea of Galilee.* Right: *A Lady and Gentleman in Black.* Both oil on canvas. Both stolen from the Gardner Museum, 1990.

the Blue Room on the ground floor and took a Manet (Fig. 24). On the way out, there was a Napoleonic flag that they attempted to get, but apparently they couldn't get the screws out of the casing, so they went on top of the casing and they took the eagle finial off the top of the staff for whatever reason. And then on the way out the door, they took a small Chinese beaker referred to as a Ku (Fig. 25). If anybody here has any idea why they took that conglomeration of objects, I'd sure like to know, because we've been discussing this for years, and we still can't figure out why they took what they did. On the way to the Short Gallery and on the way to the Blue Room, they passed some pretty valuable stuff. There was a Titian *Rape of Europa,* which may be one of the most valuable paintings in the world. They didn't touch that. So why they took what they took, to this day we don't know.

About an hour and twenty minutes after they entered, they exited, and from that point on we have absolutely no idea what happened. We don't know if there were other people outside or not. We have reason to believe that there were, probably at least one, maybe two, and probably they made a getaway in a van or large vehicle or some sort of truck. But we don't know, we really have no idea. The day after the robbery, the *Boston Globe* printed the fact that there was no insurance on any of the stolen items. Of all the possible reasons that this art was taken, that's the one that I believe. I think that they were taken for insurance purposes. But we looked at everything. We looked at organized crime; we

looked at political organizations; we looked at drug cartels; we looked at a contract theft; we looked at everything, and nothing made sense. At the time that this case was going on, the day after it became what we refer to as an "office special," there were, I believe, twelve agents assigned to the case for around twenty weeks to handle everything that was going on. We had thousands of interviews. We compiled suspect lists, evidence recovery, interviews of people in the neighborhood. We interviewed people who came by the museum at the same time, to determine if anybody might have seen anything. We also interviewed employees—and you can't imagine for a museum this size, [the number of] electricians and carpenters and employees, guards, painting restorers, ticket takers, people who had been employed in the museum for years before. We had to go back and try to track as many people down as we possibly could. For the next six to ten weeks, there were a voluminous number of leads coming in from offices—from New York, from Chicago. The word got into the prisons that if anybody could come up with the information as to who did this, it might be a chip to bargain your way out of jail. That's how big this thing was. The value put on the theft was somewhere between two and three hundred million dollars. We really don't know the value of the paintings. Today it's probably closer to five hundred million, even higher.

Figure 17. Rembrandt Harmensz van Rijn. *Self-Portrait*. Etching. Stolen from the Gardner Museum, 1990.

Figure 18. Govaert Flinck. *Landscape with an Obelisk*. Oil on oak panel. Stolen from the Gardner Museum, 1990.

It's really hard to say what this art is worth. It's probably so valuable that you can't move it. That is one of the things that we are faced with now, and also when the insurance claim never came to pass. We did hundreds and hundreds of interviews; we did surveillances of suspects; polygraphs of suspects, trying to eliminate people. It was a very, very difficult case. It is still a difficult case. The United States Attorney's Office and the FBI in Boston treat this as a top priority case. It still is, and we will supply any amount of agents to it, not only in Boston, but throughout the country, as needed. We have been all over the world. We've been to Canada; we went to Mexico, we've been to Japan; we've been to Europe several times; we've been to conferences like this. We try to get the word out now. Obviously the more people that we can get the word out to, the greater likelihood we will get it to the right person who knows something or who might be able to help us out. The museum posted a million dollar reward the day after the theft, and this, of course, brings people out of the woodwork, but we have to cover every one of those leads.

Figure 19. Hilaire Germain Edgar Degas. *Cortège aux Environs de Florence*. Pencil and wash on paper. Stolen from the Gardner Museum, 1990.

Figure 20. Hilaire Germain Edgar Degas. *La Sortie du Pelage*. Pencil and watercolor on paper. Stolen from the Gardner Museum, 1990.

Figure 21. (top) Hilaire Germain Edgar Degas. *Three Mounted Jockeys*. Black ink, wash, and oil pigments on medium brown paper.

Figure 22. (center) Hilaire Germain Edgar Degas. *Program for an artistic soirée*. Charcoal on white paper.

Figure 23. (bottom) Hilaire Germain Edgar Degas. *Program for an artistic soirée*. Charcoal on buff paper.

All three stolen from the Gardner Museum, 1990.

Especially the leads that we get from prisoners or from people in jail or people who may think they know something. So it was an awful lot of work for a long, long time.

A couple of years after the dust settled and things started

Figure 24. Edouard Manet. *Chez Tortoni*. Oil on canvas. Stolen from the Gardner Museum, 1990.

Figure 25. Shang Dynasty. Chinese bronze beaker or Ku. Stolen from the Gardner Museum, 1990.

to slow down a little bit, the Bureau spent $50,000 advertising the fact that there was a million dollar reward. We advertised in London papers; we advertised in national papers, *The New York Times, The Wall Street Journal.* We were advertising the fact that there was a million dollar reward out there and the heavens opened up. There were leads that came in by the barrelful. We had to run every one of these leads out, and we did, unsuccessfully. Unfortunately it remains that way.

FALSE LEADS

A few interesting things have happened. About five years ago, two young ladies teaching English in Japan were invited to the home of one of their students. He was very proud of his art collection that he had gathered throughout the world. The girls immediately noticed that *The Storm on the Sea of Galilee* was one of the paintings on the wall. They notified us. It took us six months, but we arranged to see it. It was the first time that an American search warrant was ever obtained in Japan. We had to coordinate with the Japanese government, with the police, with the United

"It is still a prosecutable case. . . even though the statute has run."

States Attorney's Office, with everybody else involved, and as I said, it took six months to do it. People from the museum, people from the FBI, I mean by the time we got to the door, it was a parade. We knocked on the door, and the gentleman was very nice. He let everybody in, and it turned out that the painting was not an original. The students knew the original was stolen, and we had no choice but to go over there. We did not know that he would let us in. . . .

The following year, a young man was walking a dog in Charlestown, a suburb of Boston. He happened to look into the window of a brownstone apartment and saw what he thought was *The Concert*, lighted on the wall. He immediately called us. We got people from the museum, and we were down there the next day, all of us, looking in the window, when the owner came to the door, and asked, "Can I help you folks out?" Of course, she was very nice too and let us all in, and that work also was a copy. There are other stories, but those are neat ones that I like.

Things went along. I mean we worked. As I said, the number of suspects that we went through. There are still some out there that we've never eliminated, that we can't eliminate for one reason or another, so they are still hanging out there. But about four years ago, we met two guys by the name of Bill Youngworth and Myles Connor. Most of you have probably heard of them if you know about this theft. Connor was a notorious art thief. He was doing time for drugs. Billy Youngworth was an antiques dealer from a suburb of Boston who had met Myles. They notified journalists, and eventually the word got to us that they felt that they were in a position to broker the return of the art objects. And by the way, I might add this: About four years ago, the museum raised the reward to $5 million, which again opened the heavens and started an inordinate flow. Connor and Billy Youngworth were interested only in the reward, and they married up, or at least Youngworth did. Myles was in jail, and Billy was on the street. Myles was doing twelve years, I believe, for drug and art violation. Billy was out and Myles was in, so they fashioned this idea that they would broker the return of the paintings. But they also hooked up with a *Boston Herald* newspaper reporter [Tom Mashberg] and everything that we tried to do with them, every time that we would try to talk to them, the next day it would appear in headlines in the newspaper. (Fig. 26) For about six weeks this was showing up perhaps twice a week on the front page. I would wake up in the morning, and I was afraid to read the paper, because I'd wonder, "What's he saying now?" It got to the point where the newspaper said, "We've seen it!" That's what this reporter was saying. He actually saw the paintings. I can't really get into that. It is still a pending case. It's a prosecutable case. Even though the statute has run, it is a prosecutable case.

These are some of the things we were dealing with. It was very difficult to deal with people like this. The one thing that we told them, we continue to tell anybody: If you can prove to us that you know what you are talking about, show us something. Show us photos, show us chips, show us what's on the back of the painting. Let us know that you know what you are talking about, and then we will talk to you. Well, we got photos of photos, or photos of postcards, or photos of something in a book, which we knew were phony.

BOSTON HERALD

Wednesday, August 27, 1997

WEATHER: Partly sunny but nice. High 79. Page 54 LOTTERIES: Page 82

Informant shows reporter apparent stolen masterpiece

By TOM MASHBERG

We've seen it!

Feds to grill jailed art thief: Page 30

Fig. 28. Headline, Boston Herald, August 27, 1997.

Lynne [Chaffinch] and her people proved that they were not photos of paintings, they were photos of another photo. So if you have the paintings, I would think that you would take a photo of the painting. Chips came to us, which we determined were chips, 17th century, perhaps, Dutch painting chips, but there is a lot of 17th century stuff out there, as you probably know. They did not match the chips that we had recovered from the scene, or that the museum had independently recovered years ago. There was one fellow in Chicago who disagreed with us, but the paintings that we had didn't match the stuff that we recovered. "Well," they said, "maybe it wasn't *that* painting, maybe it

"Chips came to us, but they did not match the chips that we recovered from the scene."

was another painting." Well, we didn't have chips from the other painting, and we couldn't determine whether it was or not, but I would think that if you were going to give us chips, you might know which painting they came from. So it goes on. Billy went to jail for a couple of years, and now he is out again, so this thing, I'm sure, will be rearing its ugly head again.

These are some of the things that we dealt with. I know folks have got a lot of questions. Neil [Cronin] will probably be able to answer the questions more specifically than I can. It's a tremendous case. We will stay with it. We've been on it since day one, and we will stay with it until it's solved. I think it's solvable, and I think that somebody out there has got some information that they are going to give to us, and I think, hopefully, we will be able to recover these paintings.

For the Bureau right now the primary thrust of the investigation is the recovery. It is a prosecutable case even though the statute of limitations has lapsed. It lapsed after five years. As a result of this case, the statute is now twenty years, but they could not grandfather this case. The new statute is a direct result of this case, and one or two other ones. Ten years is not a real long time for recovering artwork. There is stuff showing up now that has been gone for twenty, thirty, or forty years. There is stuff coming up now that was taken during WWII. So ten years is not a long time. We only hope that this stuff is being cared for somewhere and that someday it will return to the place where it belongs, which is on the walls of the Isabella Stewart Gardner Museum.

"It's a tremendous case . . . and we will stay with it until it's solved. I think it's solvable, and I think that somebody out there has got information . . . , and, hopefully, we will be able to recover these paintings."

(→ *continued next page*)

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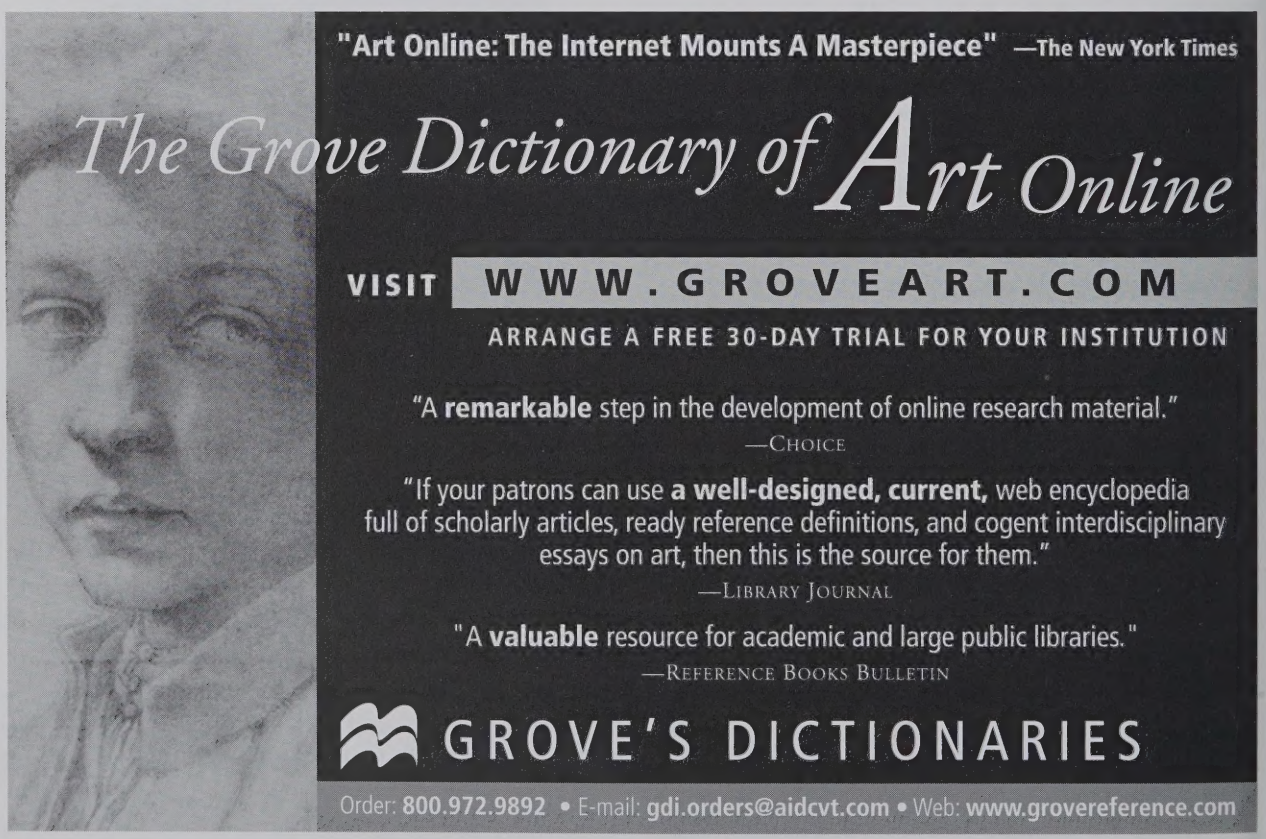
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The FBI's Role in Art Fraud and Theft

AUDIENCE QUESTIONS

THE ARCHIPENKO CASE

Q I was the person who identified the Archipenko sculptures for the FBI in Florida, and I was also one of the two people [in New York] to whom they were being sent. They were coming from an old client of mine who had written most of the books on Archipenko and who had a vast collection of Archipenko sculptures. [My] theories of why the theft took place are at great variance with what Ms. Chaffinch said. She said that someone was arrested later on a different charge. Could I hear about that please?

A **Lynne Chaffinch (LC):** As far as I know, the subject was put in prison later for unrelated charges, and there was nothing done with the Archipenko case. I can't talk about certain aspects of the case.

Q But we never knew who the subject was because we thought the truck driver had engineered [it].

A **LC:** I'm not familiar with whether it was the truck driver or not, but since we did not actually prosecute anyone, I cannot provide any names.

Q . . . . One of the problems with stealing sculpture is that not only will the people who don't know what it is not buy it from you, but even the people who *do* know what it is won't buy it from you because they don't know whether it's real, and most of the time it isn't. Most of the time Archipenko sculpture isn't. One of the auction houses this week had five pieces [by Archipenko] that weren't real. We had the feeling that the man [in this case] thought that he had something that he couldn't sell, and that is how it ended up at the antique dealer.

STATUTE OF LIMITATIONS

Q You mentioned the statute of limitations being five years. If you can't find [the stolen object] or suppose a theft has taken place and no one knows it has taken place, does that extend the statute? That is my first question. My other question is, how do Japan and Switzerland, for example, treat stolen art differently than the United States does? I have a vague idea that it is easier for objects to be sold in those two countries, but I'm not sure.

A **LC:** Japan and Switzerland have different laws with regard to good faith buyers. You can pass good title to a good faith buyer in Japan and Switzerland. There are certain laws in each country as to how long you have to own it and that sort of thing, but eventually a good faith buyer can acquire title, and no recovery can be made. Here in the United States, that is not true. You cannot pass good title on stolen property. So no matter how many good faith buyers or how many years have gone by, since the thief did not pass good title initially, no one else since then has had it. Now that affects recovery [of the item] not prosecution, which are two different things. We can make a recovery twenty or thirty years later based on documentation that [the item] was stolen, but because of our statute of limitations, we can't always prosecute people. Do other panelists want to address this?

A **Thomas Cassano (TC):** When we went to Japan, the one thing that the Gardner Museum had to agree to, that the Japanese government insisted upon, was that if the painting was found to be authentic, that it could be returned to the U.S. for prosecuting purposes, but then it had to be brought back to Japan for the Japanese courts to determine the rightful owner. They felt that if one of their people had bought the painting in good faith and paid a lot of money for it, the Japanese government might determine that that person was the legal owner.

A **Catherine Begley (CB):** I just wanted to give you an example of an art case where a painting was stolen twenty-five years ago in Iran. It was moved, reported stolen, and brought to the West Coast. I think this is the easiest way to describe a statute of limitations situation. The person who took it to California thought that if he waited for that period of time, there would be no problem selling it, and no one would be charged with a crime. The Art Loss Register and IFAR assisted in this particular case. He attempted to sell the painting here in New York [thus transporting stolen art across state borders]. The clock started ticking again, from the time he attempted to sell it and brought it to New York, and we successfully prosecuted the person who stole the painting and caused it to be transported interstate. That helps you with the federal violation. Many of the art thieves that were mentioned by Tom Cassano think that they can bury stolen art and then take it out twenty or thirty years later. We can use the federal violations to successfully prosecute them.

THE GARDNER MUSEUM THEFT

Q I have a question with regard to the Gardner Museum. Have you ever investigated similar thefts, and I'm thinking particularly of the Beit Collection theft from County Wicklow, Russborough House [Blessington, Ireland] in 1974? The IRA stole nine paintings. They were recovered only a week later. They included a Goya, a Velasquez, and a Vermeer. The IRA stole some of those same paintings again in 1986. Again the Vermeer, *Lady Writing a Letter with Her Maid.* The IRA also stole a Vermeer from the Iveagh Bequest outside London, Kenwood House, which was recovered in a trash bag in a churchyard. I find myself wondering whether the IRA's obsession with Vermeer and their complete failure ever to ransom them, although that is always the plan [is connected to the Gardner theft]. The IRA also stole a racehorse that they ended up killing and burying. Have you ever looked to that pattern to see any of the parallels? I'm also struck by the fact that the Gardner was invaded just a little while after midnight of Saint Patrick's Day.

A **Neil Cronin (NC):** A simple answer is yes. We have been in contact with the British and the Irish authorities on those specific thefts and also some of the thefts here in the United States that seem similar to the Gardner Museum robbery.

Q Why has the FBI never publicly made the connection between the Gardner thefts and the most likely suspect, the man who controlled organized crime in Boston in 1990, James "Whitey" Bulger, who by the way has a connection with the IRA, having run guns for them? In the spring of 1990, he was about to lose his protector informant in the FBI Boston office, John Connolly, who was about to retire. Subsequently, it was learned that Connolly had protected him for over twenty years. In fact, Connolly has now been indicted for, I believe, eleven counts for his criminal involvement and Bulger has now been indicted for dozens of crimes, including eighteen murders. Bulger controlled crime in Boston. He is a person who could carry out a theft like that and make the thieves and the paintings disappear. He needed a bargaining chip, and you mentioned it yourself, it's a tremendous bargaining chip. He knew that he was losing his protection, and what better bargaining chip than a collection of tremendously valuable paintings? That is another explanation for why they have never appeared on the black market or for ransom. They are being held for insurance while Whitey is on land. He, in fact, has been reported to have been in Ireland several times since 1995, and definitely has a lot of connections there. So even if you don't believe that he is a prime suspect, why not put that out as a possibility, raising the incentive to rat on Whitey from a quarter million dollars to five and a quarter million dollars? He couldn't hide in Timbuktu with that kind of price on his head, so why not at least float this as a possibility and improve your chances? Frankly, you've been taking a beating in the Boston press [regarding] what appears to be a lackadaisical effort to find Whitey. Why not float this, and see what turns up?

A **NC:** What newspaper are you with? I'm only kidding.

Q I'm just a private citizen, and everything I've said is found on the Internet or on your Web site.

A **NC:** In a pending matter, we are not in the business of publicly floating our theories. What we would do, and what we have done, is work with the informants and the people in the criminal area. Yours is certainly a theory that we believe may be possible, but it is not something that we would publicly state at a press conference or put in the newspapers.

Q Well, surely, you have your connections with the press . . . why not call up one of your buddies. You know there has been a lot written about this.

A **TC:** Why do you think he is *not* a suspect?

Q Why do I think he's not a suspect? I think he is. I think he ought to be your *prime* suspect. My question is why don't you make him your suspect and make it something that is out there . . .

A **NC:** . . . We get that information to the people who need to know that. I mean, publicly you are talking about our theories in the newspapers. I don't see what good that does.

Q The people who need to know it are the people who are hiding Whitey, who would love to have five and a quarter million dollars. They won't risk their lives for a quarter million, but might for five and a quarter.

A **NC:** The people that need to know, do know it.

Q Did you ever consider the theory that they were really interested in the eagle [finial] from the top of the flag, and that the paintings were just to put you off the track? [chuckle]

A **TC:** . . . There *was* some effort [by the thieves] to get the flag, and if you look at some of the other things that were taken, there may be a a French flavor to it, but why an eagle and why a Ku [beaker] going out the door? It is very difficult to come up with answers.

Q To what degree were any of the other works damaged?

A **NC:** It's hard to say, but other than the two [paintings] that were cut out, we are not aware of any damage. Certainly if they are not being taken care of at this point, and rolling them up obviously would damage them.

Q Is there is any history of paintings being stolen for the pure pleasure of owning them and having them in your house, rather than for selling them?

A **CB:** I think we have had a few cases of just that, where in the mid-seventies some of the names that have been mentioned in this presentation would actually steal artwork for the buyers. Something that they'd like. They would actually research where the paintings were, if they could get to them, knowing that the buyer just wanted the painting for his personal collection. So that does happen, and sometimes years later it is discovered, when the person dies or it moves on.

Q About four or five years ago when I was in Boston, I was intrigued by a series of articles in the *Boston Herald*, by a reporter stating that he was brought blindfolded in the area around Boston and actually saw the paintings. It was more than one article, . . . and when I read it, I said that I wanted to see the next article. There is no next article. I would like to know what has happened with that reporter.

A **TC:** That is what I was referring to earlier [Fig. 26].

Q Right, right. I think you used some phrase like "it's still a prosecutable crime."

A **TC:** It is still prosecutable. Tom Mashberg is the reporter that you are talking about. Again, I have to be careful, I can't go into exactly what has been said. We feel that Mashberg saw something, but we are not real sure what it was that he saw. In other words, was it a hoax or was it something other? It's difficult to tell. . . . You are talking about two or three seconds in a darkened warehouse with a flashlight, and I can't go into it any more than that. So it's really difficult to say what he actually saw.

Q But in four or five years, haven't you been able to determine what he in fact saw or where he went?

A **TC:** No, we can't. . . . As you said, he was taken around an area blindfolded and didn't know exactly where he was, but he claims he did see something and, as you said, it was in the headlines of the *Boston Herald*, "We've seen it!"(Fig. 26) So it's very difficult.

Q Regarding the reward, aren't people afraid they'll be prosecuted if they come forth with this information? And I guess part-in-parcel with this, isn't there a big concern that these artworks have been destroyed

because the publicity is such that the paintings can never be sold without somebody knowing about it?

ANC: That certainly is a concern, but paintings have been returned before. They can work out immunity agreements with the United States Attorney's Office. But I've spoken with people. This Bill Youngworth is paranoid, as are others who have been suspects and who say they can facilitate the return. You tell them that you want to get the works back, the statute has run, but they just don't believe that if they return these paintings, the United States Attorney's Office and the FBI are not going to come after them for something. We tell them to get an attorney, make a proffer, talk to the United States Attorney's Office, and work that out. Certainly it is a concern that the paintings may have been destroyed or that they have not been taken care of over a ten-year period, and are rolled up some way and are decaying, So there certainly are some concerns.

ASharon Flescher (SF): If I could just interject. As Cathy said earlier, it's not unusual that works turn up ten, twenty years later. That happened just last year with several works that had been stolen in 1978 from the de Young Museum, including what was once considered *The Portrait of a Rabbi* by Rembrandt. Four paintings were stolen at that time, and three of them turned up at Doyle's auction house literally in a box twenty years later. Someone just left them. Obviously, someone in that chain of "ownership" discovered he couldn't sell the works. The former "Rembrandt" had been on the cover of two *IFARreports*. It was an extremely well-known painting. The works were damaged, but nonetheless returned intact,with the fourth work, a tiny work by a Dutch artist, still missing. So there is hope that the Gardner works could just literally turn up someplace and not necessarily through the person who stole them.

Q I believe I understood you to say that the Gardner works were not insured, and, if so, I'm curious why that was, and has that been rectified? Are the other pieces in the museum now insured? If it is true [that the works are not insured], who is responsible financially for running the investigation?

ANC: I don't know why. Insuring pieces of that value was exceptionally expensive at the time. The museum, unlike today, was operating on a very shoestring budget, and I think that is probably the reason.

SF: Wasn't there a theory that because the works in the collection could not be sold, moved, or anything else, that . . . it was thought unnecessary to insure them because they couldn't be replaced in any case?

TC: Right. That's another reason.

Q I have a question, but first as a sidelight, [I'd like to mention that] Isabella Stewart Gardner herself, when she was alive and had opened her house as a museum, found there was pilfering going on all the time by guests. There weren't really guards per se. People would pick things up and try to take them home, and she would literally slap their wrists, make them put them back, and tell them they were bad. But, apparently, she didn't think anyone would walk out with any one of her objects.

My question is that you indicate that the FBI relies on informants a great deal in the investigation of its cases. I am curious whether they are unique to each case, or if you have informants you regularly rely on, how expert they are. That is, how many of them may come from the art world itself and how many from the criminal element?

(Audience Comment with laughter): Assuming they are different.

ANC: Obviously both, actually. Some [informants] are unique to the case and have knowledge of that particular case, but we also have sources who are former art thieves or are in the art business that we go to on any art case.

Q Well, where do they come from? Do you go out when you are doing interviews? Are you seeking informants?

ANC: Well, obviously, with a $5 million reward you get a lot of calls, you get a lot of letters from people in prison, and you cultivate people that have an interest in and knowledge of art and might be in the netherworld to help you out on all those types of cases.

Q Regarding the Gardner theft and the guard opening the door for the two pretend policemen, there is debate as to whether a 24-hour guard is essential for security. I'm thinking of small museums in particular, and being a curator trying to get loans. In this case it seems that human error was not as good as an alarm system

would have been with police minding the alarm. But which is safer for small museums? To have a guard who can open the door, or to have an electronic system? . . . [I know that] in the case of the Gardner, the guards were found to be completely innocent.

A **TC:** It's hard to say. Obviously if you have a guard, you are dealing with the human factor. The Gardner at the time had both a guard and an alarm. There was no outside alarm other than a panic button. As soon as the guards were taken away from the panic button, whoever did this knew that there was no further outside contact to be concerned about. Would the thieves have gotten in if there were no guard on duty? They might have gone through the door. You really don't know, but I think if you've got a guard on, it certainly gives people a second thing to think about. The one thing, and I mentioned that there was no violence here, is that this was done on what we call a ruse. There was no force used to get in. There were no weapons seen. There were no weapons used. It was more of a burglary . .

TAMPERING WITH ARCHIVES

Q I am an art conservator. To switch away from the Gardner case—we've all heard about even scholars, legitimate scholars, being tempted too far and going into archives and libraries and smuggling things out. People who started out as legitimate, people who thought, maybe, "they" are not taking good care of this, so I can take better care of it at home. But what fascinates me is this new thing about someone going into the Library of Congress and planting information so as to create a provenance and now some of these archives don't know what is legit and what is not. Have there been any other cases besides that one with the Library of Congress?

A **SF:** Well yes. The big John Myatt/John Drewe case that Cathy mentioned before, which involved the Tate Gallery and the Victoria and Albert Museum.

CB: In the Tate Gallery case, the subject of that investigation actually became a donor to the gallery and was able to get into its archives and take letters and stationery from different art galleries and use them as provenance. I'm not familiar with any cases here, and I don't think Lynne is either.

LC: The Tate one is the only one I'm familiar with, where they actually got in and altered the provenance at that level. Most of my fakes come with beautiful provenances, beautiful paperwork. As soon as my agents call and say I've got a Titian or whatever with lovely paperwork and all this documentation, well, normally, you assume it's fake immediately. The paper is easy to fake. They don't need to actually infiltrate archives if they can mock up stationery and get letters by appraisers and different people. Normally they will just mock up some sort of letterhead. They will even get the names of people who are dead so someone can't check with them. I get a lot of fake paper, but very seldom does someone actually go to the extreme of infiltrating an institution and placing it there. That was unique in the Tate, and that was what really upset people because that was the first time we had seen something like that happen.

A **SF:** Maybe we should add that they are making a movie about this story, and Michael Douglas is playing the lead. It's true.

Q . . . With regards to the fake documentation implanted both in the V&A and in the Tate, they later checked at the British Museum and other art libraries and, therefore, managed to limit the damage. He [John Drewe] was essentially faking catalogs and faking entries into catalogues . . .

THE INTERNET

Q I have an Internet question. Several people have mentioned Web sites. I want to know if you feel that that has been helpful for people either to check the images of stolen works, to verify whether they have seen something similar, or other leads have come into you, and, if so, maybe IFAR could list the appropriate Web sites in a future journal. I would find that useful. I don't keep all of my old *IFARreports* [and journals] handy when I want to consult.

A **SF:** We published two articles listing Web sites about a year ago, but maybe it's time we updated them.

Q The sites that would show the images or just cases in progress.

A **SF:** There aren't that many sites that actually show the images. The FBI site does; the ALR has been

investigating ways that they can do it without jeopardizing the very important audit trail, which people sometimes don't think about. There is a two-edged sword to this. On the one hand, you want people to know all of the images, and on the other hand, you want to be able to track the people who are asking questions about stolen items and match them up. The challenge ALR has been facing is how to do that. But the FBI site does have images, and there are some other smaller sites with images.

LC: I don't think any of the databases will ever have everything out there. When you add up all the databases internationally, you are looking at over a million objects. So logistically we are trying to look at how we can share data with the France database and the Italy database. I think Italy has got half a million objects alone on theirs, so there is a lot of stolen art out there, and trying to search it, you do want to control that information. You want to know who is asking, what is their interest, how did they hear about it. So we just choose certain cases that the agents want to highlight, like the Gardner. If they want those images out in the public and they want to get the word out, we do it. Other cases they would rather not. Maybe they are involved with following a subject, and they don't want it all over the paper. So it's case by case whether we put it on the Internet. I don't think any of us will get to the point where our images are just out there to search. I think volume and control would be difficult.

SF: I will use the moderator's privilege of asking the last question. I know that the FBI has started to get interested in art fraud on the Internet. I am personally interested in it on behalf of IFAR. We get a lot of inquiries about this. Could you say a few words about the new FBI unit on Internet fraud?

LC: We do have a brand new Internet Fraud Complaint Center. . . . It opened in May 2000, and it is in charge of taking any sort of fraud complaints nationally. Then they will distribute those complaints to the various agencies involved, whether in Texas or California or wherever. They are also going to try to track if certain people or certain Web sites show up again and again. None of us work with that. The relevant Web site is www.ifccfbi.gov. A press release [announcing the site] encouraged people to report things to the Complaint Center.

Sharon Flescher:
On that note I am going to end the program. Thank you all for participating. Please join us for refreshments.

■ ■ ■

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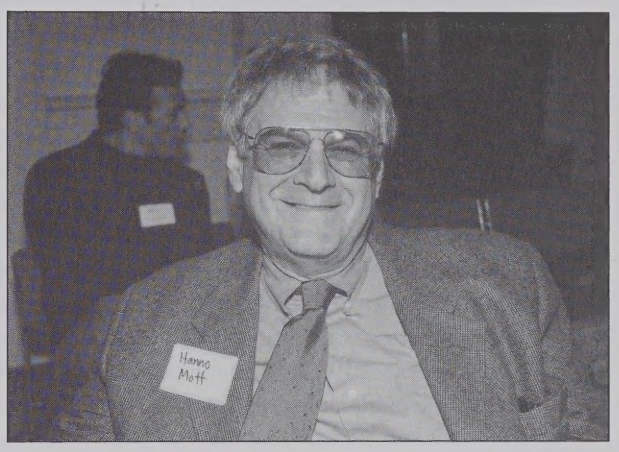
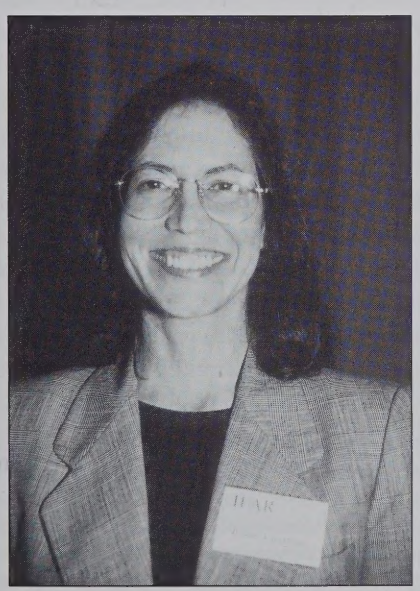
AN IFAR EVENING . . .

Left to right: Attorneys Herbert Hirsch, Franklin Feldman, and Van Kirk Reeves, *IFAR Evening*, November 14, 2000.

W. Thomas Cassano, Retired Supervisory Special Agent, FBI, Boston. *IFAR Evening*, November 14, 2000.



Hanno Mott, esq., *IFAR Evening*, November 14, 2000.



Lynne Chaffinch, Art Theft Program Manager, FBI, Washington, DC, *IFAR Evening*, November 14, 2000.

Left to right: Michael Crane, Lorna Goodman, Lee MacCormick Edwards, and Ed Goodman, *IFAR Evening*, November 14, 2000.

A Puzzle Resolved: Duke's Portrait Identified

GERTRUDE WILMERS*

IFAR's Authentication Service was presented not long ago with an intriguing challenge when, contrary to its general procedure of only accepting works with an initial attribution, it agreed to research a portrait of an anonymous gentleman by an unidentified artist with virtually no traceable provenance. IFAR successfully identified both the artist and the sitter who turned out to be an important Prussian Duke and field marshall. The authentication process involved library and archival research, contacts with art and numismatic specialists in the U.S and Europe, and examination of the work itself.

The painting, an oil on canvas, is unsigned (Fig. 1). Although the label on its nineteenth century-style gilt frame reads "Portrait of a Gentleman, eighteenth century, Dutch School," the picture appeared to IFAR to be German or Austrian. Depicted is a middle-aged gentleman dressed in frock coat, britches, and high boots and seated on a stone balcony. He holds a walking stick and wears a sword of which only the scabbard is visible. On a table are books, a baton, a tri-cornered hat, and a large urn decorated with the figure of a rearing horse. In the background to the left are a group of buildings and trees. To the right are carefully delineated stone blocks of a column or wall. The scene derives from two different portrait traditions popular since the Renaissance: the Lord in his manor and the scholar in his study.

Figure 1. Painting presented to the Art Authentication Service at IFAR as: *Portrait of a Gentleman*, eighteenth century, Dutch School. Oil on canvas, 28" x 21". Now attributed to Johann Georg Ziesenis.

THE SITTER: A PRUSSIAN DUKE AND FIELD MARSHALL

IFAR's identification of the sitter was facilitated by the presence of three medals on his frock coat. The larger of the badges was easily identified, due to its survival into the present day, as the star of the Order of the Garter. The red, square-armed cross of St. George, surrounded by the blue garter and set off by a white star, are clearly visible in the painting. Although the Order was founded by King Edward II of England in 1448, and has always been predominantly British, early on foreigners were also admitted. In the eighteenth century, after the Elector of Hanover became the English king George II (1683-1760), German noblemen were particularly likely to be elected into the Order.[1]

Identification of the Latin cross below the Garter star proved more difficult, but was accomplished through the help of both the American Numismatic Society in New York and medalists in Europe as the cross of the Cathedral Chapter of Magdeburg in Magdeburg, Germany.[2] It consists of a white-enameled, gold cross surmounted by a golden crown. In the center is a black eagle on a gold ground.

*Gertrude Wilmers, Ph.D., is Special Research Associate at IFAR.

1. See Peter J. Begent, T*he Most Noble Order of the Garter, its History and Ceremonial*, London, 1990. In recent times, Winston Churchill, Anthony Eden, and Clement Atlee were all knights of the Order. Churchill, in fact, first refused the Order in 1945, after his party had been voted out of office, remarking famously, "I can hardly accept the Order of the Garter from the king after the people have given me the Order of the Boot."

2. IFAR would like to thank in particular: Alan M. Stahl, formerly Curator of Medals and Decorations at the Numismatic Society; Commander James Risk, a specialist in orders of knighthood, and; Andreas Thies of Nurtingen, Germany and Sascha Zimmerman of Rosenheim, Germany, both experts on medals.

The same experts identified a third decoration, almost obscured by the sitter's left arm, as the cross of the Order of St. John of Prussia. Seen in its entirety, the cross has four arms with two points on each arm and is also made of white-enamelled gold. The Order traces its origins to the Kingdom of Jerusalem in the twelfth century. After the Reformation, the Protestant branch became active in Europe. In Prussia, the Order assumed a military character, and its members were chosen by the king. Since only one person in history has received this combination of decorations during his lifetime, IFAR was able to identify the sitter as the Prussian nobleman, Ferdinand, Duke of Braunschweig-Wolfenbüttel, one of the most famous generals of the eighteenth century.

The circumstances of Ferdinand's life explain how he came to be awarded these prestigious decorations and shed light on other motifs in the picture. He was born in the town of Wolfenbüttel, in the Duchy of Braunschweig (Brunswick) in 1721.[3] In the eighteenth century, Braunschweig was part

"Once IFAR identified the sitter as Ferdinand, the imagery in the painting became clear."

of the larger administrative area of Hanover which, as we have seen, had close historical ties to Great Britain. As the fourth son of the reigning duke, Ferdinand was trained early for the military, and received the Cross of St. John from King Frederick William I of Prussia (1688-1740) when he was only fourteen years old.[4]

Ferdinand became the brother-in-law and close friend of Frederick William's son, King Frederick II ("The Great") of Prussia after the marriage of his eldest brother, Duke Carl I, to Frederick's sister, Philippine-Charlotte. King Frederick appointed him as colonel of the Prussian troops in Braunschweig and commander of the fort at Magdeburg, to which he soon made significant improvements including an expansion of its fortifications.

Ferdinand first distinguished himself fighting in the Silesian Wars against Austria, and at the start of the Seven Years War (1756-1763) was promoted to field marshall. At Minden in 1759, he victoriously led 40,000 Prussian and English troups against a French army twice the size, bringing him enormous popularity and fame throughout Europe. The following year, a grateful George II of England installed Ferdinand as a Knight of the Garter, by proxy, at St. George's Chapel in Windsor Castle.[5]

In 1763, Duke Ferdinand bought the Mecklenburg Prebend, [6] part of the Protestant Magdeburg Cathedral lands, and was later voted onto the council of the cathedral chapter. Although history does not record the year Ferdinand received the Magdeburg Cross, it must have been around this time. His part-time residence in the town, mandated by his service on the council, as well as his earlier improvements to its fortifications were, no doubt, also factors in the bestowal of this honor.

Ferdinand retired from military service in 1766, after a cooling in his relationship with King Frederick,[7] despite an attempt by the English king—by then George II—to appoint him Commander-in-Chief of his North American campaign. After his retirement, Ferdinand became one of the richest men in northern Germany as a result of the generosity of the English sovereigns who rewarded his military successes with a life-long pension and additional monetary gifts. He set up a luxurious court in the village of Vechelde, on the outskirts of Braunschweig, which was to assume considerable political and cultural significance, and devoted himself to freemasonry, the secret fraternal order he had joined at age nineteen.

IDENTIFYING MOTIFS

Once IFAR identified the sitter as Ferdinand, the imagery in the painting became clear. The rearing horse on the urn, for example, derives from the Braunschweig coat-of-arms

3. For Ferdinand's biography, see: Heinrich Winkelmann, "Herzog Ferdinand un sein Hof-oder ein braunschweigischer Fürst im Ruhestand," in *Braunschweig-Bevern. Ein Fürstenhaus als europäische Dynastie, 1667-1884*, Braunschweig, 1997, pp. 141-160; Maximilian Gritzner, *Die altpreussischen aufgehobenen Domkollegiate*, Biblio, 1987, p. 63; Kurt von Priesdorff, *Soldatisches Führertum*, 1937, I, p. 290, and; Woldemar von Seidlitz, *Allgemeines historisches Porträtwerk*, Munich, 1894-1897, III, pl. 115.

4. According to Von Priesdorff, *Soldatisches Führertum*, p. 290.

5. See Winkelmann, in *Braunschweig-Bevern*, p. 332, and Schwarz, Die Herzöge von Braunschweig-Bevern als *Ordensträger*," in Ibid., p. 332. Ferdinand is also listed in *The Statutes of the Order of the Garter*, 1972, p. 105, an unpublished official rule book of the Order.

6. A portion of land or tithe from which a cathedral church derived revenue with which to pay stipends to the canon or members of the chapter.

7. Ferdinand's relationship with King Frederick seems to have been complicated by, among other things, Ferdinand's close ties to England. In the War of the Austrian Succession, Britain had supported Maria Theresa against Prussia and France. It was only when Frederick William II succeeded Frederick to the Prussian throne that Ferdinand was paid his pension and other monies long owed him by the Prussian state. See Winkelmann, in *Braunschweig-Bevern*, pp. 144-146.

Figure 2. Coat of Arms of the Braunschweig Family.

(Fig. 2),[8] and is found on the seal of the famous library in Wolfenbüttel, established in the seventeenth century by Ferdinand's ancestor Duke August the Younger.[9] Other details refer specifically to Ferdinand's military career, such as the scabbard, and the field marshall's baton and tri-cornered hat on the table. Still others can be associated with the Duke's retirement, including the group of buildings in the background which have been identified as the village of Vechelde,[10] visible from his country estate. The blocks of stone in the column behind Ferdinand may be be a discreet reference to the Order of Freemasons, to which he belonged.

THE ARTIST: A GERMAN PORTRAITIST

The identification of the sitter facilitated the identification of the artist who, as IFAR suspected, turned out to be German. An initial hunch, Johann Heinrich Tischbein, a member of the well-known family of German portraitists whose sitters included Duke Ferdinand,[11] turned out to be incorrect, but it led us to the work of his compatriot, Johann Georg Ziesenis.[12] Although little known in the United States, Ziesenis was the leading Rococo portrait painter in Mannheim and Hanover in the eighteenth century, and is the subject of a recent monograph by the German art historian, Karin Schrader.[13]

Born in Copenhagen of German parents in 1716, Ziesenis trained with his father, also an artist, before settling in Frankfurt in 1742. He worked in Zweibrücken and Mannheim in the 1740's, and became court painter to George II of England in Hanover in 1760, a position which enabled him to expand his activities to courts in Braunschweig, Bayreuth, and Weimar.

As a young man, Ziesenis studied the Flemish portraiture of Peter Paul Rubens and Anthony Van Dyck, and copied works by seventeenth-century Dutch genre painters in the electoral galleries of Mannheim and Düsseldorf. He later came under the influence of the French Baroque artist Hyacinthe Rigaud, and the English school of portraiture. Although his oeuvre contains many examples of the formal court portrait, Ziesenis's major contribution was a more spontaneous portrait composition harking back to the Renaissance and reminiscent of French Enlightenment artists such as Jacques Aved and Jean-Marc Nattier.

Figure 3. Johann Georg Ziesenis, *Duke Ferdinand of Braunschweig-Wolfenbüttel*. Oil on canvas, 49" x 35". Deutsches Historisches Museum, Berlin.

8. Illustrated in Johann Siebmacher's *Wappenbuch*, ed. 1772, VI, p. 6.
9.See *A Treasure House of Books. The Library of Duke August of Brunswick-Wolfenbüttel*, exhibition catalogue, The Grolier Club of New York, New York, 1999, p. 228, no. 38. The horse also appears as heraldic sculpture, see Rudolf-Alexander Schütte, *Die Kostbarkeiten der Renaissance und Barock*, Braunschweig, 1997, pp. 41-43, pl. 11.2.
10. See: Christof Römer, *500 Jahre Krieg und Frieden. Braunschweigische Militärgeschichte vom Fehdezeitalter bis zum ende des Absolutismus, Braunschweig*, 1982, p. 135, no. 77, pl. 72; Paul Jonas Meier, *Die Bau- und Kunstdenkmäler des Kreises Braunschweig*, Wolfenbüttel, 1900, II, p. 90, and; Karin Schrader, *Der Bildnismaler Johann Georg Ziesenis (1716-1776): Leben und Werk mit kritischen Oeuvre-katalog, Munster*, 1995, p. 258.
11. Anna-Charlotte Flohr, *Johann Heinrich Tischbein der Ältere (1722-1789) als Porträtsmaler mit einum kritischen Werkverzeichnis*, Munich, 1997, lists two portraits of Duke Ferdinand by Tischbein, one dated 1763 (no. G60), the other undated but from the same period (G59).
12. IFAR would like to thank Marianne Heinz, Director of the Staatliche Museen in Kassel, for her assistance in this phase of our research.
13. See fn. 10.

Figure 4 (left). Engraving by Clement Kohl after Johann Georg Ziesenis, *Duke Ferdinand of Braunschweig-Wolfenbüttel*, Herzog August Bibliothek, Wolfenbüttel.

Figure 5 (right). Johann Georg Ziesenis, *Duke Ferdinand of Braunschweig-Wolfenbüttel*. Oil on canvas, 49" x 35". Deutsches Historisches Museum, Berlin.

In the 1760's, a decade after reaching his mature style, Ziesenis painted numerous portraits of Ferdinand and other members of the Braunschweig-Wolfenbüttel family, including the reigning Duke Carl and his wife and son.[14] One of these, a full-length portrait of Ferdinand, exhibits many of the same details as the IFAR picture. Painted with an extravagance worthy of Rigaud, it portrays the Duke, resplendent in the costume of the Order of the Garter with purple ermine cloak, the garter displayed below his knee, and the "Great George"—a chain with pendant of St. George slaying the dragon—hanging from his shoulders (Fig. 3).[15] Next to Ferdinand on a velvet-draped table are displayed his medals, including the crosses of the Order of St. John and the Magdeburg Cathedral Chapter. As in the IFAR portrait, a heraldic emblem, in this case the Braunschweig lion, is included.[16]

AUTHENTICATION AND DATING

Karin Schrader is the only recent scholar to have concentrated on Ziesenis's oeuvre. Her *catalogue raisonné* includes fifteen painted variations of the IFAR portrait and an engraved version by the Czech artist Clement Kohl, in which the sitter is identified by an inscription (Fig. 4).[17] None of the painted variations is signed or documented, but Schrader believes that a large version in Bayreuth[18] (Fig. 5) is the prototype for the composition and is executed exclusively by Ziesenis.

The evident popularity of the image reflects the eighteenth-century practice of presenting portraits as gifts to relatives and friends, creating a veritable industry of portraiture production. Although Duke Ferdinand never married, he was part of an extensive family[19] and had a large circle of acquaintances, thus creating a formidable demand for his likeness.

Ziesenis is known to have employed a number of assistants to help him keep up with this demand, often making it dif-

14. According to Schrader, *Ziesenis*, pp. 30-32, the artist was in Braunschweig in 1763, and again in 1765 and early 1766. From late summer, 1767, to January, 1768, he visited the Duke at Vechelde. In 1769, Ziesenis spent March through May in Braunschweig and Anhalt-Dessau. For portraits of Duke Carl and his family, see *Ibid.*, pp. 212-219, and 225.

15. The "Great George" is described by Begent, in *The Most Noble Order of the Garter*, n. pag. [2]. A larger version of the painting illustrated here is in the Herzog-Anton-Ulrich Museum, Braunschweig, see *Ibid.*, p. 238, no. 193.

16. Noted by Schrader, *Ziesenis*, p. 238, no. 193. The lion also appears on the Braunschweig-Wolfenbüttel coat-or-arms, see Fig. 2.

17. See Ibid., pp. 257-259. The engraving is discussed in: Seidlitz *Allgemeines historisches Porträtwerk*, pl. 115, and Peter Mortzfeld, *Die Porträtsammlung der Herzog August Bibliothek Wolfenbüttel*, 1996, series A, III, pp. 120 and 314.

18. See Schrader, *Ziesenis*, p. 257, no. 234.

19. According to the Braunschweig-Wolfenbüttel family tree provided to IFAR by Schrader, Ferdinand had eight siblings and at least twelve nieces and nephews living at the time the portrait was painted.

ficult to recognize his hand.[20] Traditionally, the determination as to whether a work is by Ziesenis or by studio assistant or follower has been based primarily on quality. Therefore, with unsigned pictures lacking provenance and/or other documentation, the highly accomplished versions are given to Ziesenis, the less accomplished to his assistants.

In keeping with this tradition, Schrader believes that the painting submitted to IFAR is of sufficient quality to be almost certainly by Ziesenis himself. Basing her opinion only on a good color photograph—although IFAR itself examined the actual work—and despite the painting's poor condition,[21] Schrader noted that all the hallmarks of Ziesenis's mature style are present: the directness of expression and subdued harmony of red, brown and green earth tones recall the artist's study of Dutch seventeenth-century painting, while the treatment of flesh tints and over-all technique—in particular the fine brush strokes and delicate glazing—are too convincingly rendered to have been reproduced by an assistant or copyist.

Once Schrader concluded that the quality of the painting demanded an attribution to Ziesenis himself, she found the question of its dating to be relatively simple. The depiction of Ferdinand in civilian clothes in residence at Vechelde provided a *terminus ante quem* of 1766, the year of his retirement. She posited that the prototype of the portrait would have been created from life during one of Ziesenis's sojourns in Braunschweig in the late 1760's,[22] and IFAR's picture would have been executed sometime later, probably from a version by the artist kept in the studio, but certainly well before the artist's death in 1776, by which time the Duke's appearance would no longer have corresponded to the likeness in the IFAR portrait.

Duke Ferdinand has been eulogized by one of his biographers as "...a handsome, powerful man with a lively facial expression who distinguished himself through his outstanding qualities of intellect and character, energy and determination and through his justness, candor, patience and kindheartedness."[23] IFAR's identification of this remarkable sitter and the artist who painted him so successfully should add a new dimension to the owner's enjoyment of this portrait.

20. Three assistants are known; Christian Ludwig Kriegelstein, Jens Risum, and the artist's daughter, Elizabeth. See Schrader, *Ziesenis*, pp. 29-31, 33, and 45.

21. IFAR's examination of the painting, with the assistance of professor and conservator Joyce Hill Stoner, revealed several harmful restorations during which the surface had been harshly cleaned with strong solvents. Large areas, particularly in the background, were found to have been overpainted.

22. See fn. 14.

23. Seidlitz, *Allgemeines historisches Porträtwerk*, p. 115. Translated from the German.

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The Laches Defense in Art Theft Litigation

JEREMY G. EPSTEIN*[1]

EDITOR'S NOTE: *At our Conference on Provenance and Due Diligence (April 2000), there was a brief discussion of the doctrine of laches as it applies to claims for stolen or looted art. (See* IFAR JOURNAL, *Vol. 3, nos. 3 and 4, pp. 42-3; 56-7.) The following article by Jeremy Epstein, written for the* NEW YORK LAW JOURNAL *and edited and revised for* IFAR JOURNAL, *delves further into the issue. We thought it would be of interest to our readers.*

THE DOCTRINE OF LACHES PERMITS A COURT TO DISMISS A LAWSUIT IF THE PLAINTIFF HAS UNREASONABLY DELAYED FILING SUIT, AND IF SUCH DELAY PREJUDICES THE DEFENDANT. A RECENT DECISION APPLIES THIS DOCTRINE TO A CLAIM OF ART THEFT.

The massive displacement of art during World War II continues to stimulate litigation. Claimants continue to come forward to assert ownership rights in works that, in some cases, have been out of their family's possession for over 60 years.

The issue of due diligence, or lack thereof, arises in almost every case. It arises because in almost all such cases, the claimants took some measures to recover their property, usually in the years immediately following the loss, but at some point those efforts diminished. Every court in which these issues are raised must confront the question of what constitutes due diligence, and what constitutes a laches defense sufficient to overcome an otherwise valid claim.

Meaningful answers to these questions can now be found in *The Greek Orthodox Patriarchate of Jerusalem v. Christie's Inc.*, decided in 1999,[2] (hereinafter *Patriarchate*). In that case, Judge Kimba Wood of the Southern District of New York adjudicated a claim to a 10th century manuscript allegedly stolen from the plaintiff's monastery in the 1920's. Judge Wood dismissed the claim on laches grounds, and in so doing clarified the definition of laches under New York law and reconciled two apparently disparate lines of authority.

RELEVANT CASE LAW: *DEWEERTH*

At the time of Judge Wood's decision, two New York cases, one state, and one federal, bore on the laches defense in art theft cases. These cases did not wholly agree, but Judge Wood correctly identified their common themes. The first of these is *DeWeerth v. Baldinger*.[3] There, the Second Circuit dismissed as time barred a claim by a German woman (Gerda Dorothea DeWeerth) to a Monet painting, *Champs de blé à Vétheuil*, allegedly taken from her collection at the end of World War II by American soldiers. (Fig. 1) In 1943, Ms. DeWeerth had entrusted the picture to her sister for safekeeping. In 1945, the sister found it missing from her castle in southern Germany shortly after the castle was occupied by American soldiers. Between 1945 and 1957, the plaintiff took some steps to locate the picture: she contacted military authorities; she communicated with her lawyer concerning insurance claims on the lost property; she consulted an art historian; and she contacted the West German federal bureau of investigation.[4] None of these efforts yielded anything, and the plaintiff did nothing after 1957. In 1981, Ms. DeWeerth's nephew and heir discovered the painting listed in a catalogue raisonné of Monet that he found in a Cologne museum located less than 20 miles from where the plaintiff lived. The catalogue raisonné identified galleries where the painting had been exhibited, and through litigation against one of those galleries, Ms. DeWeerth was able to identify the present owner.[5]

The district court awarded Ms. DeWeerth custody of the painting in 1987.[6] On appeal, the Second Circuit reversed and held the claim barred by the applicable New York statute of limitations,[7] which required that an action for the return of stolen property be brought within three years of the time the action accrued.[8]

The Second Circuit, sitting in diversity and applying New York law, acknowledged that under New York's "demand and refusal" rule, the statute of limitations did not begin to run in a replevin (recovery) action until a demand was made for the object and that demand is refused.[9]

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1. This article is reprinted and revised with permission from the October 20, 2000 edition of *New York Law Journal* © 2000 NLP IP Company
2. No. 98 Civ. 7664 (KMW), 1999 WL 673347 (S.D.N.Y. Aug. 30, 1999)
3. 836 F.2d 103 (2d Cir. 1987)
4. 836 F.2d at 105.

"At the time of Judge Wood's decision, two New York cases, one state, and one federal, bore on the laches defense in art theft cases. These cases did not wholly agree, but Judge Wood correctly identified their common themes."

Although the complaint was filed well within the three year statutory period following demand and refusal, the Second Circuit concluded that the inquiry did not end there. It also cited a principle of New York law that demand could not be unreasonably delayed; the open question, however, was whether the doctrine of "unreasonable delay" applied to a demand by a complainant who did not know the identity of the possessor of the stolen object.[10]

Figure 1. Claude Monet, *Champs de blé à Vétheuil*. Oil on canvas, 1879. Figured in a WWII-related ownership dispute in *DeWeerth v. Baldinger*.

The Second Circuit concluded that it did, and found that Ms. DeWeerth had unreasonably delayed her demand. The court concluded that because she had stopped all efforts in 1957, DeWeerth had failed to conduct a "continuous and diligent search." Moreover, she had failed to make use of the various mechanisms available after World War II for the reclamation of stolen art, and she took no steps to publicize her loss.[11]

The court also found "particularly inexcusable" the failure to consult the Monet catalogue raisonné, which, when it was finally consulted, led promptly to the identification of the painting's owner. The court was also troubled by the erosion of proof caused by the passage of time: witnesses had died, memories had faded, and key documents had been lost.[12]

Having found the claim time barred, the Second Circuit reversed the previous judgment in DeWeerth's favor. It noted, in a footnote, that it was unnecessary to reach the equitable defense of laches because it had based its decision on the New York statute of limitations.[13]

GUGGENHEIM v. LUBELL

The next major decision came shortly thereafter, in *Solomon R. Guggenheim Foundation v. Lubell* in 1991.[14] In *Guggenheim*, the New York Court of Appeals concluded that the Second Circuit had erred in predicting that New York courts would apply a due diligence requirement to the demand and refusal rule.

At issue in *Guggenheim* was a claim by the Guggenheim Museum to a Chagall gouache allegedly stolen from the museum's premises in the 1960's and located in the possession of a private collector in 1986. The private collector, who had purchased the work from a dealer in 1967, defended his claim on the grounds, among others, that because the museum had done nothing to locate the work in the twenty years during which it had been missing, or, indeed, to publicize the theft, its claim was barred by laches and the New York statute of limitations.

The Court of Appeals dismissed the statute of limitations defense, thereby disagreeing with *DeWeerth*.[15] The differences between the two courts, however, may have been more a matter of form than of substance; the Court of Appeals proceeded to note that although the statute of limitations did not bar the claim, the laches defense remained available.[16] The Court explained that the burden of a laches defense was greater than that imposed by the statute of limitations; whereas a statute of limitations defense only required a showing of unreasonable delay, the laches

5. The writer of this article represented the gallery in the litigation.
6. 658 F. Supp. 688 (S.D.N.Y. 1987)
7. (N.Y. C.P.L.R. §214(3))
8. 836 F.2d 106 (2d Cir. 1987)
9. 836 F.2d at 106.
10. 836 F.2d at 107-08.
11. 836 F.2d at 111.
12. 836 F.2d at 112.
13. 836 F.2d at 112-13, n.7.
14. 77 N.Y.2d 311, 569 N.E.2d 426, 567 N.Y.S.2d 623 (1991)
15. 77 N.Y.2d at 318.
16. 77 N.Y.2d.at 321.

defense required both a showing of unreasonable delay and prejudice to the defendant flowing from that delay.[17] Because the factual record underlying a laches defense had not been developed, the court remanded for consideration of that defense. The case was settled without further litigation.

By preserving the laches defense but failing to apply it, the Court of Appeals left many questions unanswered. Some believed that *Guggenheim* had impaired defenses based on a plaintiff's lack of due diligence, but it was not clear by how much. Moreover, after *Guggenheim*, no one knew quite what was sufficient to constitute a laches defense. *Guggenheim* had not discussed the contours of such a defense. It was also not clear how much, if anything, remained of the *DeWeerth* case. In *Patriarchate*, Judge Wood reconciled the apparent inconsistencies between *DeWeerth* and *Guggenheim* and provided the first extensive post-*Guggenheim* analysis of a laches defense.

PATRIARCHATE

As in most cases of this sort, the background facts in *Patriarchate* are complicated and intriguing. The work at issue was a 10th-century manuscript known as the "Archimedes Palimpsest." (Fig. 2) (A palimpsest is a document from which the original writing has been erased or partially removed and the original text written over.) In the 10th century, the manuscript contained two of the most important writings of Archimedes, the Greek scientist and philosopher. In the 12th or 13th century, the Archimedes text was erased and a Greek liturgical text written over it. For centuries the manuscript was stored in a monastery in Constantinople owned by the Greek Orthodox Patriarchate of Jerusalem, an order of monks. A French businessman bought the manuscript in the 1920s, and it descended through his family, whose name was Guersan, until it was offered for sale at Christie's in 1998.[18] The Patriarchate claimed the work was stolen, but could offer no proof of theft. The Guersan family could not prove a legitimate transfer of title through bill of sale or other means.[19]

Judge Wood, applying French law, decided that the family had good title to the work through the doctrine of "prescriptive possession," which conferred good title on an owner who enjoys open and uninterrupted possession of an object for thirty years.[20] Judge Wood did not, however, stop there. She also concluded that even if U.S. law applied —and that meant New York law—the Patriarchate's claim would be barred by the doctrine of laches.[21] Judge Wood

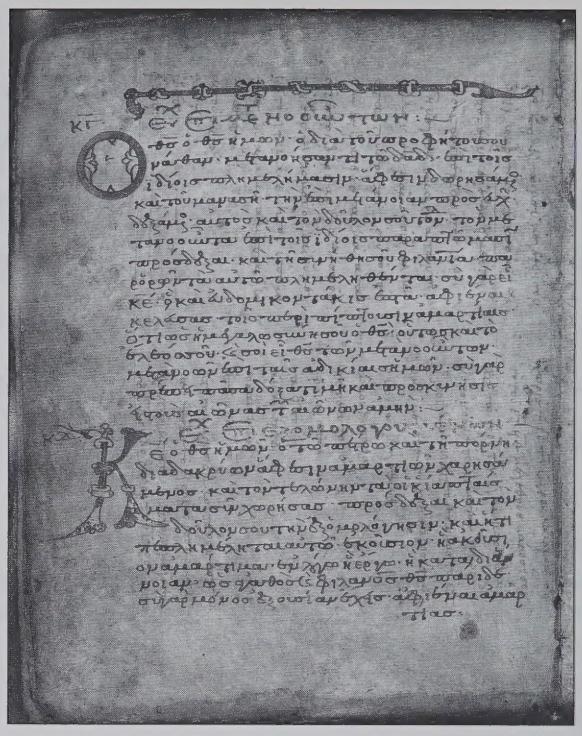


Figure 2. Archimedes Palimpsest manuscript on vellum. Constantinople, 10th century. (upper script: *Euchologian*, 12th century.) Page shown: folio 50v. Courtesy of Christie's Images, New York.

also harmonized the apparently disparate views of the Court of Appeals and the Second Circuit (in *DeWeerth* and *Guggenheim*) by noting that "both courts have explicitly ruled that the claimant's reasonable diligence in locating the lost property is highly relevant to a laches defense."[22] She further noted that "[a]lthough the Second Circuit rested its decision on the statute of limitations issue, and specifically refrained from addressing the laches defense [citation omitted], the New York Court of Appeals ruled in *Lubell* that the *DeWeerth I* decision should have been based on the principle of laches."[23] Judge Wood thus recognized that although the *Guggenheim* court explicitly rejected the Second Circuit's conclusion in *DeWeerth* that the statute of limitations incorporated a due diligence requirement, it had offered no criticism of the *DeWeerth* court's analysis of the plaintiff's diligence.

Judge Wood then applied the *DeWeerth* due diligence standard to the laches defense in the case before her. In so doing, she recognized that the basic criteria for a laches defense already existed, and that they could be found in the *DeWeerth* case. Following *DeWeerth*, Judge Wood concluded that the plaintiffs were guilty of laches.[24] She noted several similarities in the two cases.

17. Id.
18. 1999 WL 673347 at *2.
19. Id.
20. Id. at *6.
21. Id. at *7.
22. Id.
23. Id. at *8.

"The courts observed that . . . the Patriarchate's seventy-year delay in coming forward to claim ownership . . . renders it virtually impossible for the Guersans to prove ownership."

In *DeWeerth*, the plaintiff had done nothing for 24 years; the plaintiffs in *Patriarchate* had done nothing for over 60 years. When the Patriarchate claimed that as a religious institution, it was poorly equipped to search for lost property, Judge Wood pointed out that it could have hired others to do so.[25] The Second Circuit had made the same point regarding Ms. DeWeerth, who claimed that as an individual she was incapable of looking for her lost painting.[26]

Finally, in response to the Patriarchate's argument that the family could not demonstrate good faith acquisition, the court observed that "[a]s the Palimpsest was acquired so long ago, however, it is not unreasonable that the Guersan family no longer has such documents. The Patriarchate's seventy-year delay in coming forward to claim ownership... renders it virtually impossible for the Guersans to prove ownership."[27] The court noted, again relying on *DeWeerth*, that because of the delay, "the critical witness [] is deceased, memories have faded, and key documents, assuming they existed at all, are missing."[28]

The *Patriarchate* decision has immense significance for the resolution of art theft disputes. Such disputes are invariably fact intensive, but Judge Wood's decision, incorporating elements of both *Guggenheim* and *DeWeerth*, provides a framework against which facts can be analyzed. Whereas *Guggenheim* left the laches defense completely undefined, *Patriarchate* defines it by importing the due diligence standards used in the *DeWeerth* decision. Both *DeWeerth* and *Patriarchate* can hereafter be cited as guides to a proper due diligence analysis.

These cases suggest that a showing of due diligence must have at least three components:

a) a plaintiff must publicize his loss appropriately
b) he must regularly consult available sources of information and databases concerning lost or stolen art
c) he must not abandon his search.

The *DeWeerth* court observed that the plaintiff had failed all three tests: she failed "to take advantage of several mechanisms specifically set up to locate art lost during World War II";[29] she failed to "publicize her loss of the Monet in any one of several available listings designed to keep museums, galleries, and collectors vigilant for stolen art";[30] she failed "to conduct any search for 24 years from 1957 to 1981".[31]

EARLIER CASES

These criteria appear not only in *DeWeerth*, but in the New York cases that precede it. In those cases, the plaintiffs prevailed in their claims to stolen works and, in each such case, demonstrated due diligence. In *Kuntzsammlungen Zu Weimar v. Elicofon*,[32] the plaintiff, a German museum seeking to recover two paintings by Albrecht Dürer taken at the end of the Second World War, had published the loss of these paintings in two books. The publication of the second of these, *Verlorene Werk Der Malerei* ("lost paintings"), led directly to the discovery of the stolen works.

In *Menzel v. List*,[33] the plaintiff sought to recover a painting by Marc Chagall left in her apartment in Brussels when she and her husband fled from the Nazis. In both *Elicofon* and *Menzel*, the plaintiffs were found to have conducted continuous searches: "[s]earch has been made by Mr. and Mrs. Menzel ever since the end of the war...";[34] "in view of insurmountable impediments, the activities reflect a continuous and diligent search."[35]

"The decision has immense significance for the resolution of art theft disputes. Such disputes are invariably fact intensive, but Judge Wood's decision . . . provides a framework against which facts can be analyzed."

24. Id. at *10.
25. Id.
26. 836 F.2d at 112.
27. 1999 WL 673347 at *10.
28. Id.
29. (836 F.2d at 111)
30. Id.
31. Id. at 112.
32. 678 F.2d 1150 (2d Cir. 1982), affirming 536 F.Supp. 829 (E.D.N.Y. 1981)
33. 22 A.D.2d 647, 253 N.Y.S.2d 43 (1st Dep't 1964) and 49 Misc.2d 300, 267 N.Y.S.2d 804 (Sup. Ct. N.Y. Co.1966)
34. (*Menzel*, 49 Misc.2d at 301, 267 N.Y.S.2d at 807).
35. *Elicofon*, 536 F.Supp. at 852.

Both *Patriarchate* and *DeWeerth* also analyze the level of prejudice necessary to sustain a laches defense. Both cases cite the erosion of evidence by the passage of time as a significant source of prejudice. Although Judge Wood apparently deemed that showing sufficient in itself,[36] other arguments are clearly available in cases where the lapse of time is a matter of decades.

First, prejudice can be demonstrated in the appreciation in the value of the work of art itself. Given the enormous appreciation in the value of, for example, Impressionist paintings in the latter half of the 20th century, a work sold in the 1950s for a modest sum (in the case of Ms. DeWeerth's Monet, it was $30,900), can be worth millions decades later.

Second, a current owner claiming prejudice may also be able to demonstrate the lack of any recourse against a third party dealer. Although many well-established art dealers have survived for over a century, many others do not extend beyond the lines of their principals. This leaves an owner faced with a stolen art claim unable to proceed against his seller for breach of warranty.

A third argument is available to those who buy at auction. If someone buys a work after it appears in the catalogue of a major auction house, he is entitled to argue that he would not have purchased but for the claimant's lack of diligence in notifying the auctioneer prior to sale. If due diligence requires consulting major sources of information concerning works of art, such sources surely include auction house catalogues, which are extensively circulated throughout the art world.[37]

36. (1999 WL 673347 at *10-11)

37. Many major auction houses today, including Christie's and Sotheby's, routinely search all their sales items with The Art Loss Register and, perhaps, other databases of stolen art. Notifying such databases upon a loss, therefore, may soon become another step in the due diligence process, as is the searching of the database prior to a purchase.

PRESENT OWNER'S BURDEN

Judge Wood's opinion also helps to address another difficulty created by *Guggenheim*. At the end of its opinion, the *Guggenheim* court noted, in what was almost a throw-away paragraph, that "the burden of proving that the painting was not stolen properly rests with [the present owner]."[38] That statement, largely if not wholly irrelevant to the case at bar, has always been especially puzzling. Did the Court of Appeals really mean to place the burden of disproving theft on a bona fide purchaser sitting in New York 50 or 60 years after such a theft was claimed to have occurred?

Judge Wood suggests an answer: "[b]ecause the Patriarchate's delay in bringing this action renders the defendants' case much more difficult to prove, the doctrine of laches bars this action."[39] A claimant who delays unduly cannot rely on the *Guggenheim* doctrine regarding burden of proof to save the day. If anyone is to suffer from the absence of proof caused by the lapse of time, it should be the party whose conduct brought about this lapse. The issue of who bears the burden of proof of theft is more than a mere technicality. Most owners confronted with stolen art claims are good faith purchasers; a good faith purchaser acquires good title unless a theft has occurred earlier in the chain of title.[40] In the event of an earlier theft, a good faith purchaser's title is invalid, and a theft victim will prevail in a replevin action. Decades after a work's disappearance, proof of how, why or when it disappeared is not uncommonly lacking. Indeed, such proof was absent in *DeWeerth*, *Guggenheim* and *Patriachate*.

The *Guggenheim* court's closing dictum, in which it imposed a burden of disproving theft on the current owner, dramatically eased a claimant's task. Judge Wood's decision provides a necessary corrective. It eliminates the anomaly that a plaintiff could substantially enhance his chances of prevailing in court by waiting long enough until most relevant evidence was gone.

38. 77 N.Y.2d at 321.

39. 1999 WL 673347 at *9-10

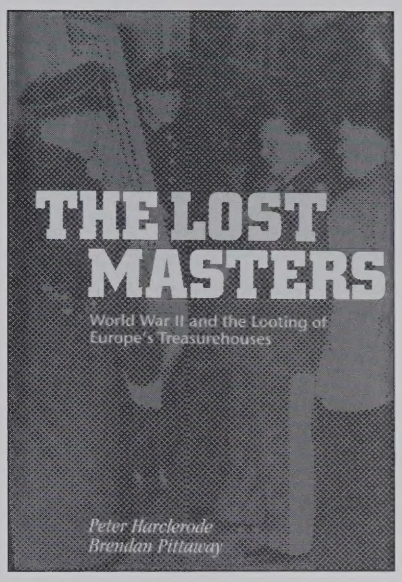
40. See *Menzel v. List, supra,* 49 Misc.2d at 315; N.Y. U.C.C. §2-403(1).

■ ■ ■

More on Looted Art

LUCILLE A. ROUSSIN*

Peter Harclerode and Brendan Pittaway. ***The Lost Masters: World War II and the Looting of Europe's Treasure Houses.*** Welcome Rain Publishers, 2000. Hard cover. 416 pp. Black and white illustrations, bibliography, index.
ISBN 1566491657.



Almost fifty years ago Ardelia Hall, the director of the Office of International Information and Cultural Affairs of the State Department, wrote: "[f]or the first time in history, restitution may be expected to continue for as long as works of art known to have been plundered during a war continue to be discovered."[1] Her words were prophetic, but not quite in the way she would have predicted. It has taken fifty years for the international community to acknowledge that vast quantities of art were looted during World War II, and that much of the looted art was not restituted to the owners.

Much of the credit for bringing the issue to the forefront of public awareness is due to Lynn Nicholas's masterful study, *The Rape of Europa, The Fate of Europe's Treasures in the Third Reich and the Second World War* (Alfred A. Knopf, New York, 1994). The book under review is one of the many recent additions to the growing literature on the looting of art during World War II.

The Lost Masters, originally published in England in 1999, is now available in a second edition published in the U.S. under an expanded title. Slightly revised and updated, it remains a headlong rush through the looting of European art by the Nazis, the attempts at restitution after the war by the Americans and the British, looting by members of the armed forces, and the accounts of some of the victimized families in their efforts to regain ownership of family collections.

As the book jacket states, the book is impressive. However, it is not always accurate, and it bears all the earmarks of haste. Acronyms for government agencies, organizations and army units proliferate like fruit flies and are used as though they are familiar to all readers. Names of artists are misspelled, as on p. 48, where Flemish artist Quentin Massys (Metsys) is rendered as Quentin Massis. Less easily understandable is the misspelling of the names of experts interviewed by the authors and the organizations they represent. Thus on p. 316 et passim, Marc Masurovsky's name has emerged as Mazurowsky, the Conference on Jewish Material Claims Against Germany has become the New York Office for Holocaust Claims, the Commission for Art Recovery has become the Commission for the Recovery of Art (CRA), and Edgar Bronfman, Sr. will be surprised to learn that the World Jewish Congress is Elan Steinberg's organization (p. 348).

Most serious are the substantive errors. In their explanations of how Austrian victims of confiscation were twice looted, first by the Nazis and then by the Austrian Export Prohibition Law for Art, authors Harclerode and Pittaway erroneously characterize Austrian law as common law rather than civil law (p. 308). Most European countries are governed by Civil Codes,[2] while the United States and the United Kingdom are governed by common law. On p. 244 the authors state that the recognition of East Germany came about as a result of the well-known case of *Kunstsammlungen zu Weimar v. Elicofon*, 536 F. Supp. 829(E.D.N.Y. 1981), *aff'd*, 678 F2d 1150 (2d Cir. 1982), while the opposite is true—the U.S. government's decision to recognize the state sovereignty of East Germany allowed the case to move forward. The authors also tend to refer to anything painted in the nineteenth or early twentieth centuries as "Impressionist." Thus on p. 128, the works of the French Barbi-

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1. Ardelia R. Hall, "The Recovery of Cultural Objects Dispersed During World War II," *Department of State Bulletin*, Aug. 27, 1951, pp. 337-45, 339.

2. *See generally* P.J. O'Keefe and L.V. Prott, 3 *Law and the Cultural Heritage* §005 at 3 (London and Edinburgh, 1989).

"The authors . . . attempt to cram every detail of every story of every piece of art looted during the war into one book. It is a double-edged sword".

zon artist Corot, the Realist Courbet, and the Post-Impressionist Van Gogh are lumped together as "twenty-five Impressionist paintings" exchanged between Göring and art dealer Theodor Fischer.

Despite these mistakes, there is much of interest in the book. Chapter 3 recounts the intricacies of the dealings of Reichsmarschall Hermann Göring, "The Thief of Karinhall," and his associates, art dealer Walter Andreas Hofer and art historian Kajetan Mühlmann. Chapter 5 relates how a four-man team of the British Special Operations Executive—all of whom were anti-Nazi Austrians who had defected to the Allies—was parachuted into Austria in the dead of night. Using newly declassified documents, the authors tell of the parachute drop at an unexpected location in dangerous terrain, the Austrian team's arrival at Bad Aussee and their efforts to save the art treasures hidden in the Alt Aussee mine. As a bizarre ending to this chapter, the authors relate some of the details of their recent visit to the famous mine: while it is open to tourists, and even boasts a Sound and Light show, there is not even a plaque that related the history of the mine and its priceless contents during World War II!

Especially interesting are the accounts in Chapters 11-13 of several of the families whose art was looted. Most of the family names will be familiar to those who have been following the looted art stories: Goodman, Czartoryski, Schloss, Koenigs. All represent major art collections that have been the subjects of recent headlines because they have been in litigation and/or negotiation stemming from the families' quests to recover their looted heritage.

The authors, Peter Harclerode and Brendan Pittaway, a historian and journalist respectively, attempt to cram every detail of every story of every piece of art looted during the war into one book. It is a double-edged sword. On the one side, they include much information that has already been published by others.[3] On the other, it makes for interesting and exciting reading. As one British reviewer put it, "the story would make an excellent television series."[4] The book is attractively produced, and the illustrations add interest to the text. It should appeal to both the specialized reader and a general audience.

■ ■ ■

3. See e.g. Lynn Nicholas, *The Rape of Europa* (Alfred A. Knopf: New York, 1994); Konstantin Akinsha and Greigorii Koslov, *Beautiful Loot. The Soviet Plunder of Europe's Art Treasures* (Random House: New York, 1995); Hector Feliciano, *The Lost Museum* (Basic Books: New York, 1997); Elizabeth Simpson, ed., *The Spoils of War* (Abrams: New York, 1997). Much of the information is taken from the Office of Strategic Services Art Looting Investigation Unit Consolidated Interrogation Report, which is available on the Internet at www.docproj.loyola.edu.

4. Norman Stone, "Books: When your art's in the wrong place; The Nazis robbed a continent of its finest paintings. Then the Russians stole them all over again. Will they ever be returned?" *The Observer*, August 22, 1999, at p. 12.

Stolen Art Alert

The Stolen Art Alert is published in cooperation with the Art Loss Register (ALR), the art community, insurance companies, police, the FBI, and Interpol.

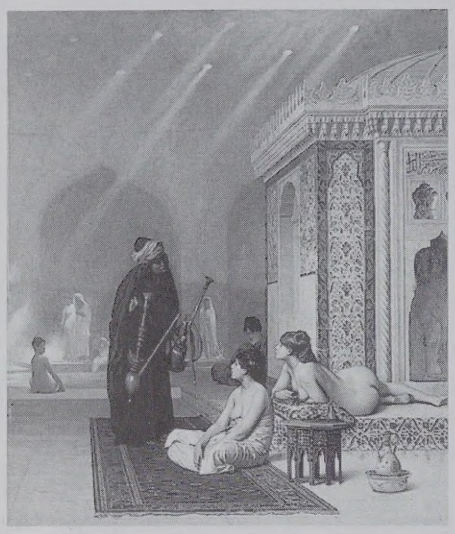
Most items in this publication are registered in the database of the Art Loss Register, with its New York office at 20 East 46th Street, New York, NY 10103 and its London office at 12 Grosvenor Place, SW1X 7HH.

The photo of each item is accompanied by a brief description of the work, the ALR catalogue number, if registered, and the date and place of theft. An asterisk * before the catalogue number means that a photograph of the stolen work is available, although not necessarily included in this issue.

The information contained in each entry is supplied by the owner, and IFAR does not accept responsibility for its accuracy.

Anyone wishing additional information should contact the ALR at (212) 297-0941.

Stolen Art



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PAINTINGS

1. Jean-Léon Gérôme (French, 1824-1904). *Pool in a Harem*, 1876. Oil on canvas. Stolen from the State Hermitage Museum, St. Petersburg, Russia. Thieves cut this painting—which hung in a closed gallery and was not connected to the alarm system—from its frame on the afternoon of March 22, 2001while the museum was open to the public.

2. Antoine-Félix Boisselier (French, 1790-1857). *Entrance of the Convent of San Benedetto, Sublaro*, 1812. Oil on paper on board. 6 3/4" x 10 7/8". *N00.152. Stolen from a New York gallery on August 29, 2000.

The following two paintings (item nos. 3 and 4) were stolen (along with item nos. 23 and 24 below) from a private residence in Houston, TX in December 1999. *N01.37:

3. Hildegard Lehnert (German, 1857-1943). *Blooming Azaleas Along the River Seine.* Oil on canvas. 40 1/2" x 32 1/2". Signed l/r: H. Lehnert.

4. Joaquin Sorolla Y Bastida (Spanish, 1863-1923). *Playa de Biarritz*, 1906. Oil on board. 6 1/2" x 8 3/4" (16 x 22 cm). Signed l/r: J Sorolla B. *N01.37.

5. KPM (German, 19th century). *Cupid Surrounded by Five Goddesses*, c.1860. Oil on porcelain. 9" x 11". Stamped on back: KPM. *N00.171.1. Stolen from a gallery in Los Angeles, CA on July 5, 2000.

6. Eden Upton Eddis (English, 1812-1901). *The Little Fortune Teller.* Oil on panel. *L00.499. Stolen from a gallery in North Yorkshire, England in February 2000.

7. Sisto Badalocchio (Italian, 1585-1647). *Landscape with Birdcatchers.* Oil on canvas. 41 x 55 cm. *L00.224. Stolen from a private residence in London, England in January 2000.

8. Nam Soo Lim (20th century). *Afternoon I*, 2000. Oil on canvas. 12" x 24". Signed: N.S. Marked on back: #16. *N00.181.4. One of twenty paintings stolen from a garage in Los Angeles, CA on April 25, 2000.

The following two paintings (item nos. 9 and 10) were stolen from a private house in Paris, France in May 2000. *L00.1151:

9. Jan Coelenbier (Dutch, 1630-77). *River Landscape.* Oil on panel. 30.2 x 50.3 cm.

10. Jean-Louis Demarne, called Demarnette (French, 1744-1829). *Halte de Cavaliers.* Oil on canvas. 44 x 56.5 cm.

11. Federico del Campo (Peruvian, late 19th-early 20th century). *A Boatyard in Venice*, c.1880-1912. Oil on canvas. 12.75" x 20". *L00.1162. Stolen from a private residence in Hert, England on January 1, 2000.

12. Edward Brian Seago (English, 20th century). *Pont Neuf*, Paris. Oil on board. 12" x 16". *L00.891. Stolen from a gallery in England in March 2000.

13. Thérèse-Marthe-Françoise Cotard-Dupre (French, 1877-?). *Feeding the Chickens.* Oil on canvas, 26" x 32". Signed. *N00.154.1-2. Stolen in transit between New York and Beverly Hills, CA on August 16, 2000 along with no. 40 (see color photo on inside back cover).

*Numbering for the year 2001 Cumulative Index of Stolen Art and the 2001 Cumulative Index of Missing Art begins with this issue.

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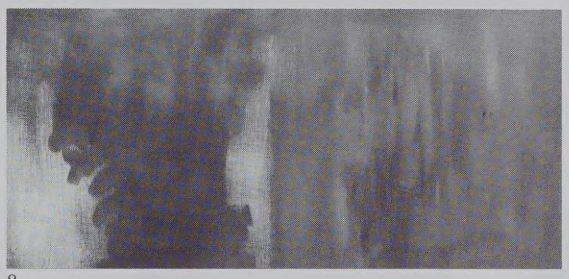

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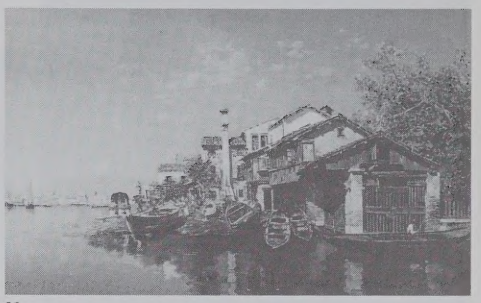

11.

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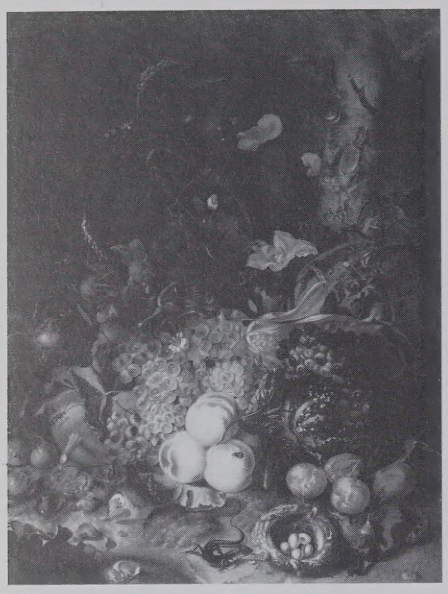

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The following two paintings were stolen from a private residence in Alicante, Spain in July 2000: *L00.1918:

14. Josef Schuster (Austrian, 1812-90). *Still Life with Fruit.* Oil on canvas. 90 x 69.5 cm.

15. Gerard Thomas (Flemish, 1663-1720). *Artist's Studio.* Oil on canvas. 67 x 85 cm.

WORKS ON PAPER

16. Hofmann, Hans (American, 1880-1966). *Untitled,* 1934. India ink on paper, 11" x 8 1/2". Signed l/r: Hans Hofmann '34. Estate stamp and no. C-0322. *N00.145. Reported stolen in transit between New York and Boca Raton, FL on July 15, 2000.

17. Jacob Kempener (Flemish, 16th century). *Still Life with Flowers.* Watercolor on vellum, c. 1590. 32 x 24 cm. *L00.1543. Stolen form a private residence in London, England on July 27, 2000.

18. Chris Ho (American, 20th century). *Sunset,* 1998. Watercolor on paper. 39" x 23". Chop l/r: Chris Ho. *N00.160. Stolen from a gallery in Los Angeles, CA on February 15, 2000.

19. James Fitzgerald (American, 1899-1971). *Oxen Logging,* c.1925. Watercolor. 19 1/2" x 25". *N00.180. Stolen from a private residence in Dover, MA on April 21, 2000.

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The following three Pablo Picasso (Spanish, 1881-1973) etchings from the Lysistrata were reported stolen from the apartment of an art books dealer in Monticello, NY on September 6, 2000:

20. *Couple et Enfant*, c.1934 (24 janvier, Paris). Bloch 268. Copper etching. 20.6 x 13.6 cm (G.388/B). Signed in pencil l/l margin; 95/150 l/r margin. *N00.188.1.

21. *Cinésias et Myrrhine*, c.1934 (17 janvier, Paris). Bloch 269. Copper etching. 22.2 x 15.3 cm (G 389/II/B). Signed in pencil l/l margin, 95/150 l/r margin. *N00.188.2.

22. *Deux Vieillards et Voilier*, c.1934 (4 février, Paris). Bloch 270. Copper etching. 21.0 x 13.9 cm (G. 390/B). Signed in pencil l/l margin, 95/150 l/r margin. *N00.188.3.

The following two works (along with item nos. 3 and 4 above) were stolen from a private residence in Houston, TX in December 1999. *N01.37:

23. Mary Cassatt (American, 1844-1926). *Margot Wearing a Large Bonnet, Seated in Armchair*, 1904. Drypoint. 11 3/4" x 9 3/8" (29.8 x 23.7 cm). Signed in pencil; numbered: No. 37. *N01.37.

24. Andrew Wyeth (American, b. 1917). *A Bridge, Race Gate*, 1984. Watercolor on paper. 14" x 22". (35.7 x 55.9 cm). Signed l/r: Andrew Wyeth.

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SCULPTURE

25. Lynn Farrand (American, 20th century). *Heaven-Sent*, c.1990. Two bronze sculptures mounted on one granite base. 17" x 14". Inscribed: Lyn 1/9-90. *N00.167. Stolen from a gallery/auction house in Los Angeles, CA on April 1, 2000.

26. William Newton. *Study of a Kudu*. Bronze. 16"x13.5". *L00.1422. Stolen from a gallery in London, England in July 2000.

27. Anna Hyatt Huntington (American, 1876-1973). *Bear Playing on its Back*. Bronze with a dark brown patina. 3 1/2" x 4 3/8" x 3 3/8". Signed: Anna V. Hyatt. Inscribed: Gorham Co. Founders/Q4/Gorham box stamp/59. *N01.48. Stolen from a Madison Avenue gallery in New York on December 19, 2000.

28. Auguste Rodin (French, 1840-1917). *Mother and Child*. Bronze. H:15.25". *L00.1037. Stolen from a gallery in England in March 2000.

29. Esther Wertheimer (American, 20th century). *Ballerina*, c.2000. Bronze with turquoise. 12" x 17". No. 21/75. Stolen from a gallery in Palm Beach, FL on July 31, 2000.

The following two sculptures were stolen from a gallery in West Sussex, England, in January 2000. *L00.80:

30. Christophe Fratin (French, 1800-64). *Sculpture of a Horse.* Bronze. 31x 37 cm.

31. Jules Moigniez (French, 1835-94). *Sculpture of a Setter.* Bronze with honey brown patina. 23 x 38 cm.

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CERAMICS, PORCELAIN

32. Derby Porcelain Factory (English, 19th century). Vase, c.1820. H: 9". *L00.578. Stolen from a private residence in Cheshire, England in March 2000.

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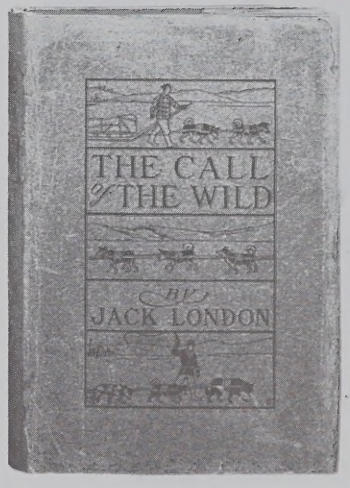
BOOKS, MANUSCRIPTS

The following two rare books were stolen from a New York gallery on August 22, 2000:

33. Jack London (American, 1876-1916). *The Call of the Wild* (Macmillan, 1903). Approx. 7 3/4" x 5". In pencil, top center on first blank leaf: '1008-0767' and 'BF 99 123'. Original green vertically ribbed pictorial cloth, with gilt, black and red decoration on spine and front cover. Illustrated. Relined dust jacket. *N00.164.1.



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34. Dante Gabriel Rossetti (English, 1828-82). *Ballads and Narrative Poems* (Kelmscott Press, 1893). Approx. 8" x 6". In upper right corner of first blank leaf: '1750'. Original full limp vellum with silk ties, one of which is missing, and uncut edges. N00.164.2. (not illustrated here).

ASIAN ART

35. *Two miniature ivory Kabuki figures.* Approx. ht.: 2-4". *N01.60. Stolen from a New Jersey home in November, 2000.

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GLASS

The following two items were stolen from a New York gallery in February 2001:

36. Kunstzalen Vecht Amsterdam (Dutch, 17th century). *Winged wineglass.* Ht: 10 cm. *N01.91.1.

37. Dutch, late 16th century. *Facon de Veniselatticinio flute.* Ht: 23 cm. *N01.91.2

MISCELLANEOUS

38. Ann Harding (American, 19th century). *Sampler*, c.1821. Counted cross-stitch. Approx. 16" x 13". Signed: Ann Harding, aged nine, Dover, 1821. *N00.183.1. Stolen from the Dover (Mass.) Historical Society during the first half of 1998.

39. *Egyptian-style Casket* (19th century). French pewter, copper and brass inlaid rosewood. *L00.1437. Stolen from a gallery in London, England in 2000.

Recovered Art

1. Lucas Cranach the Elder (German, 1472-1553). *Madonna and Child with St. John*, c.1514-15. Oil on panel. Stolen from a monastery near Florence in 1973. Recovered by the Italian police in Turin along with seven other works stolen in the same theft. (Photo not shown.)

40.

Cumulative Index of Stolen Art

Published in 2000

Barbatelli, B. (called Poccetti) 19
Benningfield, L. 43
Boudin, E.-L. 44, 45
Braque, G. 1
Cadell, F.C.B. 5
Cano, A. 8
Carpeaux, J.-B. 71
Ceramics 23
Chagall, M. 23
Claraet, A. van 39
Clocks 24
Conner. B. and M. McClure 59
Drawings 15-19
Foschi, F. 48
Gilbert, A. 60
Glendening, A.A. 14
Greenwood, M. 6
Heide, H. von der, attrib. to 64
Inness, G., attrib to 38
Knyff, W. 47
Lumkin, R. 24
Master of the Rotterdam St. John on Patmos 7
McDonald, R. 62
Miscellaneous 32-37
Monet, C. 40
Moore, H. 16, 17
Native American Artifacts 25-29
Nye, P. 13
Ostolado 46
Paintings 1-14, 38-55, 70
Picasso, P. 15, 20, 21
Prints 20, 21
Renoir, P.-A. 49, 50, 56
Rijn, R. (H.) van 51
Ripley, A. L. 18
Rizzi, J. 12
Roslin, A. 41
Rugs, Tapestries 30, 31
Russell, G. 54
Sculpture 22
Spannietta, R. 10
Sully, T. 70
Sutherland, G. 4
Tamayo, R. 58
Verhoeven-Ball, A.J. 42
Vieira da Silva, M.-H. 3
Villalobos, J. 9
Warhol, A. 57
Whitcombe, T. 55
Woodward, M. 61

Cumulative Index of Missing Art

Published in 2000

Avery, M. 1
Buttersworth, J.E. 5
Drawings 3
Fiorini, R. 4
Mangold, R. 2
Musical Instruments 4
Paintings 1, 2, 5
Webster, L. R. 3

HOLD THE DATE!

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A Tale of Deception

June 27, 2001
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RESOURCE MATERIALS
PROVENANCE AND DUE DILIGENCE CONFERENCE

Held on Saturday, April 29, 2000

This workshop/conference, featured in a recent double-issue of *IFAR Journal* and organized by the International Foundation for Art Research in collaboration with NYU, addressed the legal and artistic issues involved in establishing the provenance of a work of art and in otherwise exercising due diligence in acquiring art. Particular reference was made to art looted before and during World War II and to antiquities.

Copies of the following reference materials (approx. 400 pp.) compiled by IFAR and distributed to conference attendees are now available as a package from IFAR:

Suggested Websites for Provenance Research, Art and Cultural Property Law, and Art Theft
Cultural Property Contact List
Sources for World War II Provenance Research at the Frick Art Reference Library
Provisional List of Names Mentioned in Relation to Art Looting During the Holocaust Era (Comm. for Art Recovery)
International Regulations Concerning the Export of Cultural Property: An Update
UNESCO Handbook of National Regulations Concerning the Export of Cultural Property, 1988

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IFAR is grateful to the Samuel H. Kress Foundation for a generous grant in partial support of these materials·

40.

Stolen Art

40. Jean-François Raffaëlli (French, 1850-1924). *Place de la Trinité.* Oil on canvas, 32" x 28". Signed l/l: J.F. Raffaelli. *N00.154.1.

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Recovered Art

2. Oscar Edmund Berninghaus (American, 1874-1952). *Pueblo Indian Woman of Taos.* Oil on canvas. 45" x 50" (114.5 x 126.3 cm). *89.204.1. Stolen from the Albuquerque Museum in 1989. Recovered in January 2001 by the FBI in Cleveland.

3. Anna Mary Robertson (Grandma) Moses (American, 1860-1961). *Mount Airy.* Oil on board. 20" x 24" (50.8 x 60.9 cm). Signed. *L00.154. One of three Grandma Moses paintings stolen in a major theft in the U.K. on January 16, 2000. All three were recovered.

4. Pompeiian fresco (Roman, 1st century BC). One of six frescoes chiseled from the walls of a villa that was being excavated in the 1980s. The works "mysteriously" reappeared in February 2001 on the doorstep of London antiquities dealer James Ede, who notified authorities. Interpol and the Italian police believe the frescoes were returned by an Irish black market dealer they've been investigating since 1999.

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Stolen Art Alert
Art Research News
International Protection of Cultural Property
IFARreports
INDEX OF STOLEN ART
1977
INTERNATIONAL FOUNDATION FOR ART RESEARCH, INC.
Art Theft:
its scope, its impact, and its control
by Bonnie Burnham
IFAR Journal
INTERNATIONAL FOUNDATION FOR ART RESEARCH
ANTIQUITIES UPDATES:
GETTY RETURNS THREE OBJECTS TO ITALY
DISPUTED COINS GO TO TURKEY
COLUMBIA CONFERENCE: WHO OWNS CULTURE?
DEGAS' LITTLE DANCER: WHAT TECHNICAL ANALYSIS TELLS US
WORLD WAR II TROPHY ART: A PERSPECTIVE
INCORPORATING Stolen Art Alert

The International Foundation for Art Research (IFAR), established in 1969, is a 501 (c)(3) not-for-profit educational and research organization dedicated to integrity in the visual arts. IFAR offers impartial and authoritative information on authenticity, ownership, theft, and other artistic, legal, and ethical issues concerning art objects. IFAR serves as a bridge between the public and the scholarly and commercial art communities. We publish the quarterly *IFAR Journal*, organize symposia and public programs, offer an Art Authentication Service, provide a forum for debate, and serve as an information resource.

We invite you to join our organization and help support our activities.